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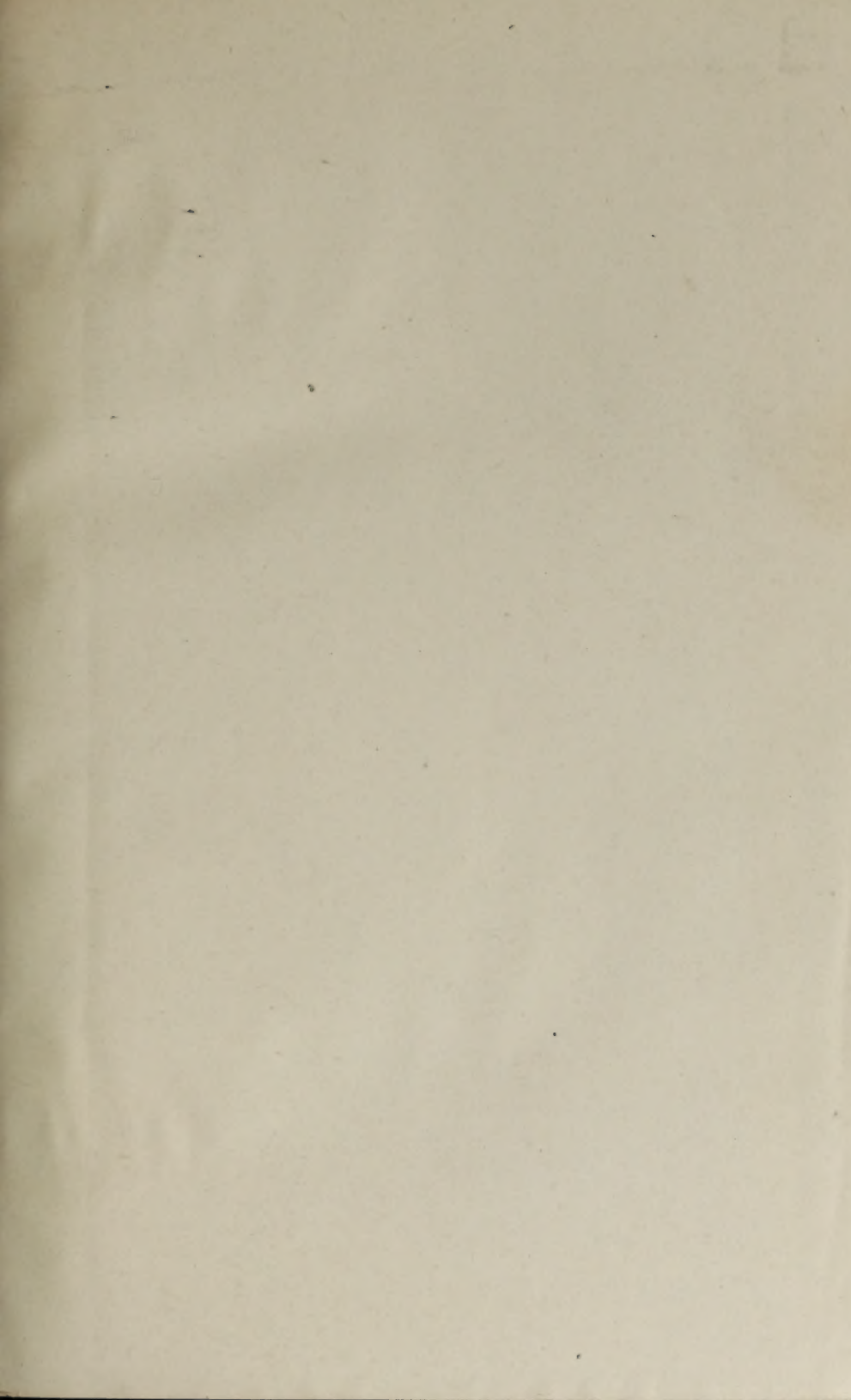
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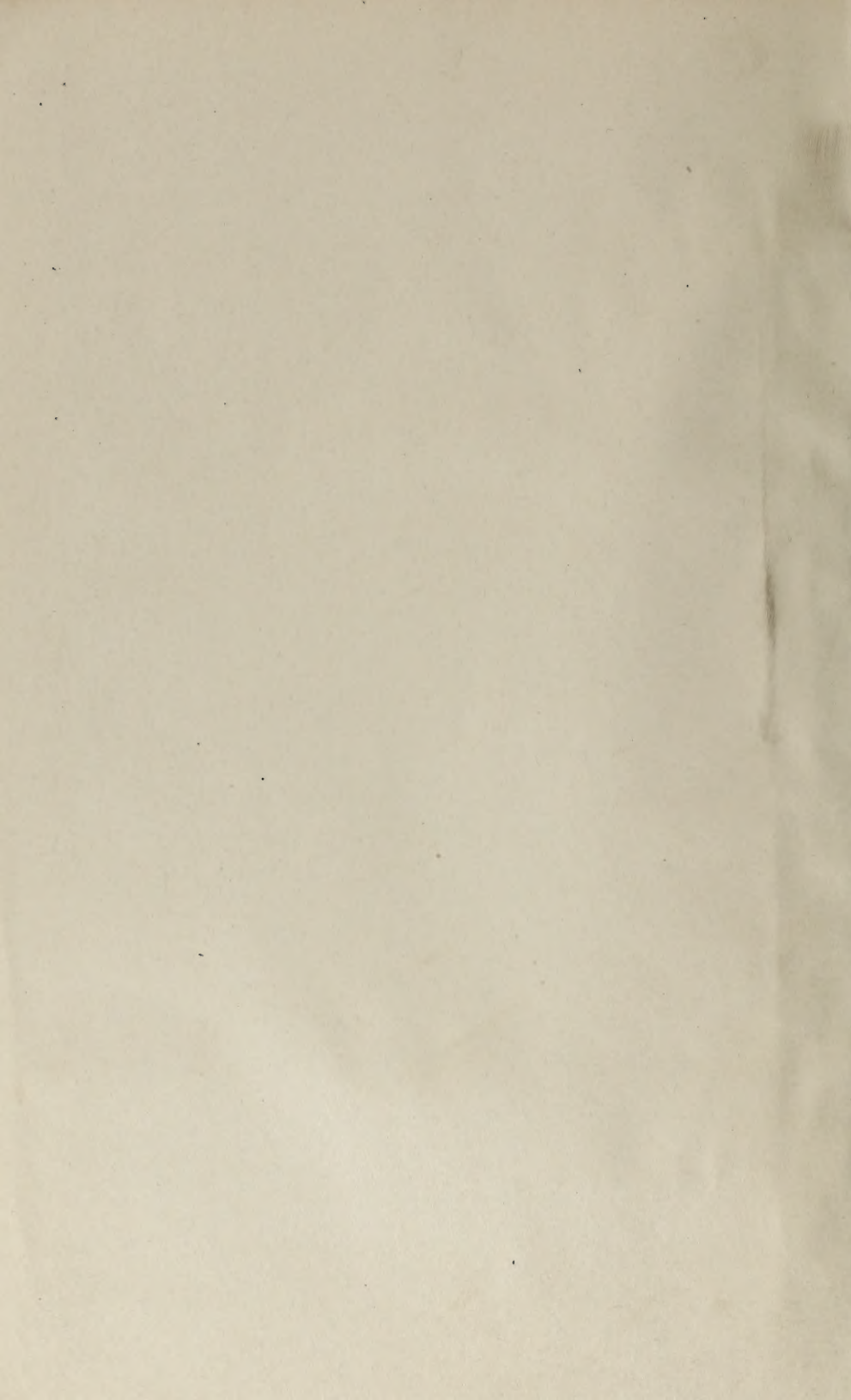
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995
No. 2728

UNITED STATES CIRCUIT COURT OF APPEALS

FOR THE NINTH CIRCUIT

AMERICAN-HAWAIIAN STEAMSHIP COMPANY, a
Corporation, Owner and Claimant of Steamship "Vir-
ginian,"

Appellant.

vs.

STRATHALBYN STEAMSHIP COMPANY, LTD., a Cor-
poration,

Appellee.

AMERICAN-HAWAIIAN STEAMSHIP COMPANY, a
Corporation, Owner and Claimant of Steamship "Vir-
ginian,"

Appellant.

vs.

STRATHALBYN STEAMSHIP COMPANY, LTD., a Cor-
poration, as bailee of a cargo of lumber consisting of
3,563,011 feet, and for the use and benefit of the owners
and insurers of said cargo,

Appellee.

APOSTLES ON APPEAL

(In Five Volumes)

(Vol. 1—Pages 1 to 304)

From the United States District Court for the Western Dis-
trict of Washington, Southern Division.

SHERMAN PRINTING & BINDING CO., SEATTLE, WASH.

Filed

JAN 5 - 1916

F. D. Monckton,

Clerk,

No. _____

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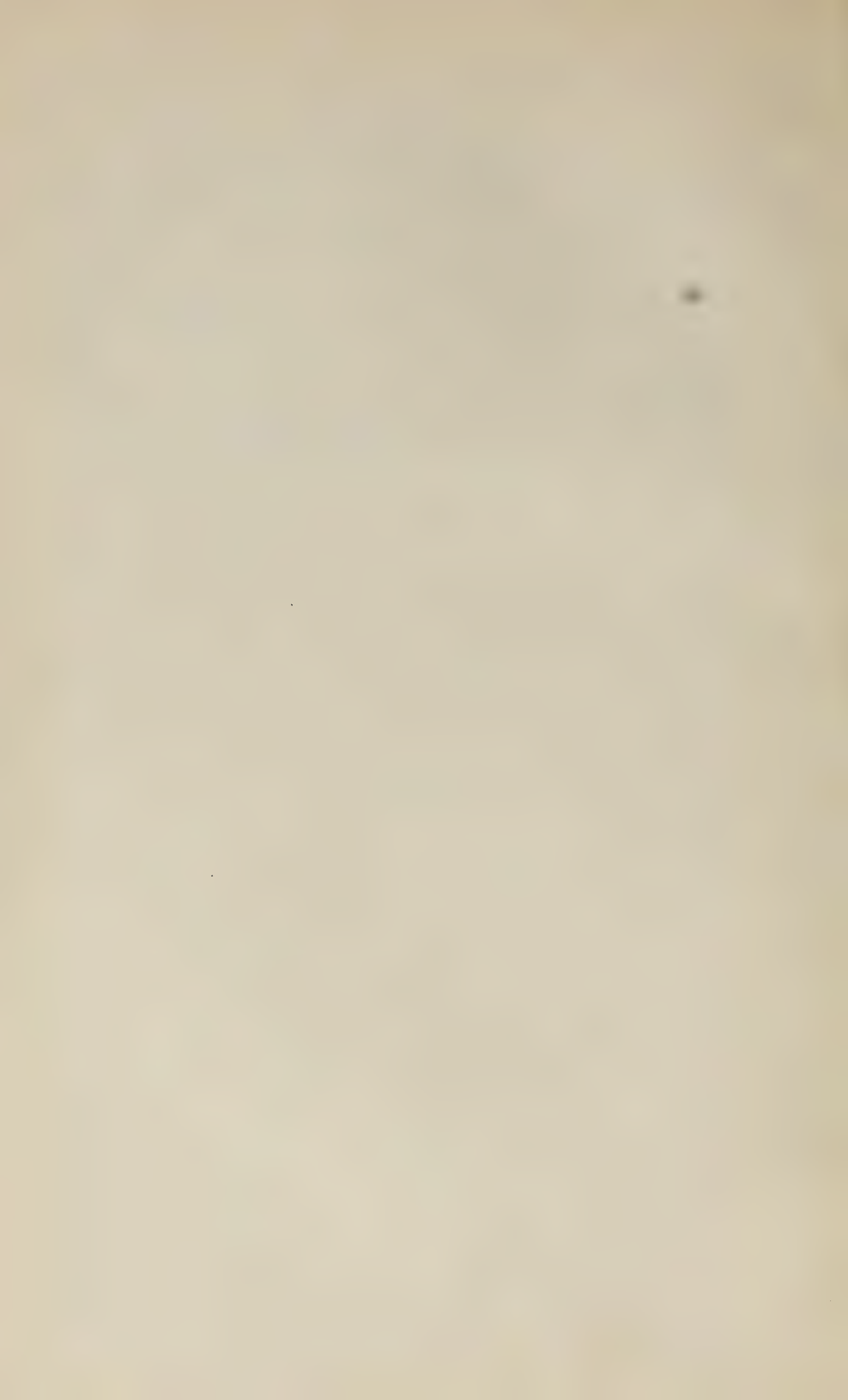
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In the District Court of the United States for the Western District of Washington, Southern Division.

NO. 1036—CONSOLIDATED CASES.

STRATHALBYN STEAMSHIP COMPANY, LTD., a corporation,
Libelant,

vs.

Steamship "VIRGINIAN," her tackle, apparel, furniture,
boilers and engines, Respondent,
AMERICAN-HAWAIIAN STEAMSHIP COMPANY, a corporation,
Claimant and Cross Libelant,
STRATHALBYN STEAMSHIP COMPANY, LTD., a corporation,
Claimant.

NO. 1052.

STRATHALBYN STEAMSHIP COMPANY, LTD., a corporation,
as bailee of a cargo of lumber consisting of 3,563,011 feet, and for the use
and benefit of the owner and insurers of
said cargo, Libelant,

vs.

Steamship "VIRGINIAN," her tackle, apparel, furniture,
boilers and engines, Respondent,
AMERICAN-HAWAIIAN STEAMSHIP COMPANY, a corporation,
Claimant and Petitioner,
Steamship "STRATHALBYN," her tackle, apparel, furniture, etc.,
Respondent,
STRATHALBYN STEAMSHIP COMPANY, LTD., a corporation,
Claimant.

NAMES AND ADDRESSES OF COUNSEL.

W. H. BOGLE, Esquire,
609-616 Central Building, Seattle, Washington.
CARROLL B. GRAVES, Esquire,
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609-616 Central Building, Seattle, Washington
Proctors for American-Hawaiian Steamship Company, Claimant and Cross Libelant.

- F. A. HUFFER, Esquire,
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Proctors for Strathalbyn Steamship
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- R. A. HURLBUT, Esquire,
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- BRUCE A. SHORTS, Esquire,
901 Alaska Building, Seattle, Washington.
Proctors for Strathalbyn Steamship
Company, Ltd., as bailee, Libelant.

STATEMENT.

Time of Commencement of Cause 1036, January 15th, 1912.

Time of Commencement of Cause 1052, February 8th, 1912.

Names of parties: Strathalbyn Steamship Company, Ltd., a corporation, Libelant and Claimant in Cause 1036 and Claimant in Cause 1052; American-Hawaiian Steamship Company, a corporation, Claimant and Cross Libelant in Cause 1036 and Claimant in Cause 1052; Strathalbyn Steamship Company, Ltd., a corporation, as bailee of cargo of lumber, consisting of 3,563,011 feet, and for the use and benefit of the owner and insurers of said cargo, Libelant in Cause 1052.

Dates when pleadings were filed:

Libel in Cause 1036 on January 15th, 1912.

Answer and cross libel in Cause 1036 on January 19th, 1912.

Answer to Cross Libel in Cause 1036 on February 16th, 1912.

Libel in Cause 1052 on February 8th, 1912.

Motion to dismiss or consolidate in Cause 1052 on March 7th, 1912.

Order of Consolidation in 1036 and 1052 on March 18th, 1912.

Petition of American-Hawaiian Steamship Company in Cause 1052, on March 13, 1912.

Answer of Strathalbyn Steamship Company, Ltd., to Petition in Cause 1052, on March 20, 1912.

Answer of Strathalbyn Steamship Company to Libel in Cause 1052, on March 18, 1914.

Stipulation as to answer of American-Hawaiian Steamship Company to Libel in Cause 1052, on December 4, 1915.

Issuance of Process and Service thereon:

On January 15, 1912, upon the filing of the libel in Cause 1036, monition and attachment were duly issued out of and under the seal of the United States Marshal for the Western District of Washington; said monition was by said Marshal, on the 17th day of January, 1912, returned to said Clerk's office, showing by said Marshal's return endorsed thereon attachment of the Steamship "Virginian" on January 15, 1912, and the release of said steamship on January 17, 1912, upon a stipulation signed by said American-Hawaiian Steamship Company, Claimant, as principal, and American Surety Company, of New York, as surety.

On January 19, 1912, after the filing of the cross-libel in Cause 1036, a monition and attachment were duly issued out of and under the seal of said Court and delivered to the United States Marshal for the Western District of Washington; said monition and attachment were by said Marshal, on January 23, 1912, returned to said Clerk's office, showing by the Marshals return endorsed thereon the attachment of the Steamship "Strathalbyn" on January 19, 1912, and the release of said steamship on January 23, 1912, upon a stipulation signed by libelant in said Cause 1036, as principal, and National Surety Company, as surety.

On February 8, 1912, upon the filing of the libel in Cause 1052, monition and attachment were duly issued out of and under the seal of said court and delivered to the United States Marshal for the Western District of Washington; the said monition and attachment were

by said Marshal on the 9th day of February, 1912, returned to said Clerk's office, showing by said Marshal's return endorsed thereon the attachment of the Steamship "Virginian" on February 8th, 1912, and the release of said steamship on February 9th, 1912, upon a stipulation signed by said American-Hawaiian Steamship Company, Claimant, as principal, and American Surety Company of New York, as surety.

On March 13th, 1912, after the filing of the Petition under the 59th Admiralty Rule of the Supreme Court of the United States by the American-Hawaiian Steamship Company, Claimant in Cause 1052, a monition and attachment were duly issued out of and under the seal of said court and delivered to the United States Marshal for the Western District of Washington; said monition and attachment were by said Marshal, on the 16th day of March, 1912, returned into the said Clerk's office, showing by said Marshal's return thereon endorsed the attachment of the steamship "Strathalbyn" on March 13th, 1912, and the release of said steamship on March 16th, 1912, upon a stipulation signed by the Strathalbyn Steamship Company, Ltd., Claimant, as principal, and National Surety Company, as surety.

Reference to Commissioner:

On January 20, 1912, the said court duly made and filed an order of reference of said Cause 1036 to Raymond J. McMillan, United States Commissioner, to take and report the testimony in said cause; and on December 10th, 1912, January 7, 1913, and May 28, 1914, said commissioner duly returned said testimony into court and the same was on the said day filed in the office of the Clerk thereof.

TRIAL.

On May 28th, 1914, said causes came on for trial and hearing before Honorable E. E. Cushman, one of the judges of said court, upon the testimony so taken before said commissioner and returned and filed in court, together with the exhibits offered in evidence by the respective parties, which were also returned by said commissioner and filed in said court, and the depositions theretofore taken and filed in said causes, and

exhibits annexed thereto. Proctors for the respective parties appeared and argued said cause in open court and thereafter submitted written briefs to said court. Thereafter, on October 10, 1914, said Judge, before whom said cause was tried and heard, duly filed his memorandum decision on the liability in said causes. Thereafter, the parties agreed as to the extent of the damages sustained by the respective parties by reason of the collision mentioned in the pleadings and filed stipulations as to the same.

DECREE.

Final decree was made and entered and filed in said causes in said District Court on November 26th, 1915.

NOTICE OF APPEAL.

Notice of appeal was served and filed on November 26th, 1915; Assignment of Errors filed December 4, 1915.

In the District Court of the United States for the Western District of Washington, Southern Division. In Admiralty.

STRATHALBYN STEAMSHIP COMPANY, LTD., a corporation, Libellant.

VS.

The Steamship "VIRGINIAN," her tackle, apparel, furniture and boilers, and engines, Respondent.

No. 1036.

LIBEL IN REM. (of Strathalbyn Steamship Co.)

To the Honorable CORNELIUS H. HANFORD and Honorable GEORGE DONWORTH, Judges of the above entitled court, sitting in admiralty:

The libel and complaint of Strathalbyn Steamship Company, Ltd., a corporation, owner of the steamship "Strathalbyn," her tackle, apparel, furniture and boilers, against the steamship "Virginian," her engines, boilers, tackle, apparel and furniture, and against all persons intervening for their interest in the same, in a cause of collision, civil and maritime, alleges as follows:

I.

That at all the times herein mentioned the above named libellant was a corporation of the Kingdom of

Great Britain and Ireland, with its principal place of business at Glasgow, Scotland, and was the owner of the steamship "Strathalbyn," her engines, boilers, tackle, apparel and furniture.

II.

That the steamship "Virginian," her engines, boilers, tackle, apparel and furniture, herein proceeded against is now within the Western District of Washington, and is within the jurisdiction of this court.

III.

That on Friday night, the 12th day of January, 1912, at about the hour of forty-five minutes after seven o'clock a collision occurred between the steamships "Strathalbyn" and "Virginian" on Puget Sound between Robinson Point and Pully Point.

IV.

That on said 12th day of January, 1912, at about the hour of 6:15 o'clock P. M. the "Strathalbyn" left the port of Tacoma, Washington, and started on her voyage for Sydney, N. S. W., then being fully equipped, manned and supplied, with her range and side lights properly set and brightly burning, having a lookout stationed on her fore-castle head, and in charge of a competent pilot, master and officers and crew, and having so started on her voyage continued thereon in safety until the light of Robinson Point was abeam when her course was changed to N. W. $\frac{1}{2}$ N. magnetic. When rounding Robinson point the light on Pully point was visible and also the lights of two vessels that appeared to be to the north of Pully point and approaching. That when the Strathalbyn was about half way between Robinson and Pully points she blew one blast of her whistle and receiving a similar answering blast passed port to port of the steamer "Flyer." That as soon as the steamer "Flyer" had passed the Strathalbyn, the Strathalbyn blew one blast of her whistle as a signal to the "Virginian" to pass her on the port side, both the red and the green side lights of the "Virginian" being at that time visible. The "Virginian" failed and neglected to answer the signal of the "Strathalbyn" and after proceeding for or in the neighborhood of a minute the Strathalbyn again blew one blast of her

whistle as a passing signal to the "Virginian" and the "Virginian" again failed and neglected to answer the same, the red light of the "Virginian" having theretofore closed, and after giving such second passing whistle to the "Virginian" and receiving no answer, and after having ported the held of the "Strathalbyn" her engines were stopped. That about a minute thereafter the "Strathalbyn" again sounded one blast of here whistle as a signal for the Virginian to pass her port to port and the Virginian again failing and neglecting to answer said signal and of her side lights her green light being the only one visible, the Strathalbyn backed full speed astern and sounded several blasts in quick succession as a danger signal to the Virginian and for the first time the Virginian sounded three blasts upon her whistle in answer thereto. That after a collision became imminent the Strathalbyn did everything in her power to avoid the same but such efforts were unavailing and the Virginian struck the Strathalbyn on the port bow in the vicinity of the hawse pipe and stove a hole in her and continued on through the Strathalbyn's bow and tore a hole in her starboard bow and crumpled her plates and broke her frames from her stem back to and including some four or five frames abaft the collision bulkhead, and thereby generally bent, broke and damaged the whole forward portion of the Strathalbyn, including her windlass, forecastle and other parts of the forward part of said vessel and caused a loss of and damage to a large quantity of gear, machinery and property, as well as injuring several of her crew and causing the death of one of them. That after said collision the Strathalbyn put back to the port of Tacoma as did also the Virginian. That the Strathalbyn's hold number one was full of water and she had a very heavy list and was down greatly by the head shortly after the collision and she has been very severely and greatly damaged. That at all the times mentioned herein prior to said collision and at the time thereof and thereafter until the Strathalbyn was moored in Tacoma her range and side lights were properly set and brightly burning, a lookout was stationed and attentive to his business upon the fore-

castle head, she was in charge of a competent pilot, master and crew who were at their respective posts and attentively attending to the several duties and the Strathalbyn was in every way manned and fitted for the voyage, and the collision occurred without any fault on her part, but solely through the fault, carelessness and neglect of the "Virginian" as aforesaid and in failing to keep away from the Strathalbyn.

V.

That by reason of the collision and the careless and negligent acts and omissions aforesaid done and permitted on the part of the "Virginian" libellant has suffered damage in the injury of said Strathalbyn and the loss and damage of equipment, gear and property aboard of her, and by reason of the loss of the use of said vessel and the cost and expense of removing and replacing her cargo, and repairing the damage done thereto and to said vessel, her tackle, apparel and furniture and cargo in the sum of \$160,000.00.

VI.

That the "Virginian" is a large steam vessel of a gross tonnage of approximately 7914 tons and a net tonnage of approximately 5077 tons and was partially loaded, but was high in the water compared with the fully loaded Strathalbyn.

VI.

That all and singular the premises are true and within the admiralty and maritime jurisdiction of this Honorable Court.

Wherefore libellant prays that process in due form of law and according to the practice of this honorable court may issue against the said steamship "Virginian" her engines, boilers, tackle, apparel and furniture, and that she may be condemned and sold to answer for the damage suffered by this libellant and that all persons having or pretending to have any right title or interest in said steamship "Virginian" her engines, boilers, tackle, apparel and furniture, may be cited to appear and answer all and singular the matters alleged herein, and that this Honorable court will be pleased to pronounce judgment for the damage suffered and sustained by libellant, and for such other and further

relief as shall be just and equitable, and that the libellant may have and recover its costs and disbursements herein.

HUFFER, HAYDEN & HAMILTON,
Proctors for Libellant. P. O. Address: 410 Fidelity Bldg., Tacoma, Wash., where all subsequent papers, except writs and process may be served.

JAMES M. ASHTON, Advocate.
(Verified.) (Filed Jan. 15, 1912.)
No. 1036.

ANSWER AND CROSS-LIBEL.

(Of American-Hawaiian Steamship Company.)

To the Honorable Judges of the Above Entitled Court,
sitting in admiralty:

The answer of the American-Hawaiian Steamship Company, a corporation, claimant of the steamship "Virginian," her engines, boilers, tackle, apparel and furniture, to the libel of the Strathalbyn Steamship Company, Ltd., owner of the steamship "Strathalbyn," alleges as follows:

I.

It admits the allegations of Paragraphs I and II of said libel.

II.

Answering Paragraph III of said libel, it admits that on the evening of January 12, 1912, a collision occurred between the steamships "Strathalbyn" and "Virginian" in Puget Sound between Robinson Point and Pully Point, and avers that the same occurred at about the hour of eight o'clock P. M.

III.

Answering Paragraph IV of said libel, it denies any knowledge or information sufficient to form a belief as to the departure of the steamship "Strathalbyn" from the port of Tacoma, or the hour thereof, or the voyage on which she was engaged, or as to whether said steamship was fully equipped and manned, or had a lookout at her forecastle head or was in charge of a competent pilot, master, officers or crew; but it denies that she was at the times mentioned in

said libel equipped with proper range and side lights or that the same were properly set or burning; that this claimant has no knowledge or information sufficient to form a belief as to the exact course, by the compass, upon which the "Strathalbyn" was proceeding, but admits that a blast was blown by some vessel ahead of the steamship "Virginian," which was answered by one blast of the steamship "Flyer," the said "Flyer" being then bound to Tacoma and about a quarter of a mile off the starboard bow of the steamship "Virginian"; and claimant further admits that shortly afterwards another blast of said vessel was given, and about a minute later another blast was likewise given, but claimant avers that the "Virginian" was unable to see the lights of any vessel from which said blasts proceeded or to make out said vessel, and admits that neither of said blasts were answered by said steamship "Virginian," and avers that they were not answered for the reason that neither the lights of the vessel nor the vessel herself from which the blasts proceeded were visible to the pilot, officers or lookout of the steamship "Virginian"; claimant admits that at all of said times the range lights and side lights of the said steamship "Virginian" were visible, and it further admits that about two minutes after said last mentioned single blast was given, four blasts were sounded as a danger signal to the "Virginian," and that the same were answered by three blasts of the whistle of the "Virginian." That claimant denies any knowledge or information as to whether the red light of the "Virginian" was visible to the steamship "Strathalbyn," or whether said steamship "Strathalbyn" at any time ported her helm or stopped or reversed her engines, or gave any other or further signals. Claimant further admits that shortly after said danger signal was given a collision occurred between the steamship "Virginian" and the steamship "Strathalbyn," but as to the nature or extent of the injuries to the said steamship "Strathalbyn," her gear, machinery, property or crew, claimant denies any knowledge or information sufficient to form a belief; claimant likewise admits that after said collision both the said steamships proceeded to the port

of Tacoma; but claimant denies each and every of the remaining allegations in said Paragraph IV contained, and avers that the facts in the premises are as herein-after set forth in its further answer and cross-libel.

IV.

Answering Paragraph V of said libel, claimant denies that the said collision occurred by reason of the fault or neglect of the steamship "Virginian," her pilot, officers or crew, and further denies any knowledge or information as to the nature or extent of the injuries or damages occasioned to said "Strathalbyn," her tackle, apparel, furniture or cargo, or as to the cost or expense of removing or replacing said cargo.

FURTHER ANSWERING AND BY WAY OF CROSS-LIBEL AND COMPLAINT, the American-Hawaiian Steamship Company, a corporation, owner of the steamship "Virginian," against the steamer "Strathalbyn," her engines, boilers, tackle, apparel and furniture, and against all persons intervening for their interest in the same, in a cause of collision, civil and maritime, alleges as follows:

I.

That at all the times herein mentioned the above-named cross-libelant was a corporation duly organized and existing under and by virtue of the laws of the State of New Jersey, with its principal place of business at Jersey City in said State, and was and is the owner of the steamship "Virginian," her engines, boilers, tackle, apparel and furniture, which said steamship is a steel twin-screw vessel of 7,914 tons gross and 5,077 tons net register, and of the length of 492', of the breadth of 58' 3" and depth of 31' 9", and that she is registered at the port of New York.

II.

That at about 6:40 P. M. on the evening of January 12, 1912, said steamship "Virginian," having aboard about 2,000 tons of cargo destined for foreign ports, left the port of Seattle and proceeded on her way to the port of Tacoma, and said steamship then and at all the times hereinafter mentioned was fully equipped and manned and supplied with good and sufficient range and side lights, properly set and brightly burn-

ing, and having a lookout stationed on her fore-castle head, and was in charge of a competent pilot, master, officers and crew; that after rounding Al-ki Point she proceeded on a course SE. by S., magnetic, until she approached Pully Point, when she hauled to the westward for the purpose of keeping well off said Point, and that she was abeam of said Point at 7:53 P. M. by the ship's time and about a half mile distant therefrom; whereupon, she straightened out her course for Point Robinson to SE $\frac{1}{4}$ S, magnetic, upon which course she proceeded until the happening of the collision herein mentioned; that when abreast of Pully Point she was overtaken and passed by the steamship "Flyer" on her way from Seattle to Tacoma, which said steamship hauled off to the right, passing on the starboard side of the steamship "Virginian" with a clearance of about 100 yards, said steamship "Flyer" giving one blast of her whistle, to which an answering blast was given by the steamship "Virginian," the steamship "Flyer" then proceeding on her way; that after said steamship "Flyer" had passed by the steamship "Virginian" and was about an eighth of a mile ahead and on the starboard bow of the "Virginian," the pilot and third officer on the bridge of the "Virginian" heard one blast of a whistle given from some vessel ahead but whose lights were not visible, which blast was immediately answered by the steamship "Flyer"; that about a minute thereafter they again heard one blast of a whistle from some point ahead and to the port side of the steamship "Flyer"; being unable to see any ship's lights or to distinguish the vessel from which said blasts proceeded, the pilot immediately ordered the engines of the steamship "Virginian" stopped, and thereupon took up his glasses and searched the waters ahead of him for the purpose of discovering from what vessel said blast proceeded; that neither the pilot nor the third officer being able to see the lights of any ship ahead and receiving no call or information from the lookout, the pilot thereupon immediately ordered the engines reversed full speed astern, at which time another blast was given from some point ahead; that a short time thereafter the pilot and other officers of

the "Virginian" being still unable to discover the lights of the vessel from which said blasts proceeded or to discover or locate the position thereof, four blasts were heard from a point ahead and were immediately answered by three blasts of the whistle of the "Virginian," signifying that her engines were going full speed astern; that a few seconds later the said steamship "Strathalbyn" loomed out of the darkness immediately in front of the "Virginian," and the two vessels forthwith came into collision, head on or nearly so, said steamship "Virginian" being struck on her starboard bow just abaft her stem, listing her to port; that at the time of said collision the engines of the steamship "Virginian" had been reversed full speed astern about two minutes or more, and she immediately after the collision began backing from the steamship "Strathalbyn"; that the night was dark, and at the time of said collision and for some little time prior thereto the sky was overcast, and rain began to fall shortly thereafter; that the said collision occurred without fault on the part of the steamship "Virginian," her officers or crew, but solely because the said steamship "Strathalbyn" did not at said time have starboard and port lights or any masthead or range lights properly placed and lighted, as required by law, so as to render said ship visible to an approaching vessel in the night time, and because the said steamship "Strathalbyn," receiving no answer to the single blast of her whistle, was advised that she could not be located by the steamship "Virginian," and negligently proceeded on her course.

III.

That at the time of the aforesaid collision the steamship "Virginian," with officers and crew of forty-eight persons, was bound on a voyage from Salina Cruz to Honolulu, calling at the ports of Seattle and Tacoma to receive and discharge cargo, and was proceeding on the evening of January 12, 1912, to the port of Tacoma for the purpose of taking on additional cargo; that at said time she was carrying about 2,000 tons of freight, consigned to the Hawaiian Islands, and that by reason of the injuries and damages to said steamship, occa-

sioned by said collision, said steamship will be compelled to incur expense in unloading and trans-shipping said freight to its destination.

IV.

That the said collision occurred without any fault on the part of the said steamship "Virginian," her pilot, officers or crew, and solely by reason of the carelessness and negligence of the steamship "Strathalbyn," her pilot, officers and crew. That said steamship "Strathalbyn" struck the steamship "Virginian" just abaft of her stem on the starboard side, injuring and damaging her as follows: Several large steel plates are ruptured and made entirely useless, also several of the steel frames or ribs of the ship have been broken in different places on both the starboard and port sides of the ship and are in such condition as to make them totally useless, also decks, breast hooks and stem are damaged down to and below the water line to such extent that it will be necessary that they be removed and renewed or repaired, the full extent and nature of the injury being such as to be impossible of exact determination until after said ship is placed in dry dock and final surveys made.

V.

That by reason of the injuries and damages to the said steamship "Virginian," her tackle and apparel, it will become necessary for her to be docked and repaired; that the full extent of the damages to said steamship and the cost of repairing the same, together with the loss of time and demurrage, can only be ascertained after the said steamship has been placed in the dry dock and repaired; but this cross-libellant avers that the damages to said steamship, her tackle, apparel, furniture and cargo, including the cost of removing and trans-shipping said cargo, and any damages to said cargo unavoidably occasioned thereby, the loss and damage by way of demurrage, and the cost of necessary repairs, will exceed the sum of One Hundred Thousand Dollars (\$100,000).

VI.

That the said steamship "Strathalbyn" is now at

the port of Tacoma, State of Washington, and within the jurisdiction of this Court.

VII.

That all and singular the premises are true and within the admiralty and maritime jurisdiction of this Honorable Court.

WHEREFORE, this cross-libelant prays that process in due form of law and according to the practice of this Honorable Court may issue against the said steamship "Strathalbyn," her engines, boilers, tackle, apparel and furniture, and that she may be condemned and sold to answer for the damage suffered by this cross-libelant, and that all persons having or pretending to have any right, title or interest in said steamship "Strathalbyn," her engines, boilers, tackle, apparel and furniture, may be cited to appear and answer all and singular the matters alleged herein, and that this Honorable Court will be pleased to pronounce judgment for the damage suffered and sustained by said cross-libelant, and for such other and further relief as shall be just and equitable, and that it recover its costs and disbursements herein.

BOGLE, GRAVES, MERRITT & BOGLE,
HUGHES, McMICKEN, DOVELL & RAMSEY,
Proctors for Claimant and Cross-Libelant,
American Hawaiian Steamship Company.

(Verified.) (Filed Jan. 19, 1912.)

No. 1036.

ANSWER OF STRATHALBYN STEAMSHIP COMPANY, LTD., a corporation, TO CROSS LIBEL.

To the Honorable the Judges of the Above Entitled Court, Sitting in Admiralty:

The answer of the Strathalbyn Steamship Company, Ltd., a corporation, claimant of the steamship "Strathalbyn," her engines, boilers, tackle, apparel and furniture to the cross libel of the American-Hawaiian Steamship Company, a corporation, alleges as follows:

I.

Denies any knowledge or information sufficient to form a belief as to the truth of the allegations set forth and contained in the first paragraph of the cross libel.

II.

Denies each and every allegation set forth and contained in the second paragraph of said cross libel, excepting it admits that the "Virginian" range and side lights were burning, and admits that the steamer "Flyer" passed the "Virginian" in the vicinity of Pulley Point on the starboard side of the "Virginian," and that the "Flyer" blew one blast of her whistle, which was answered by the "Virginian," and admits that the "Strathalbyn" and the "Virginian" came into collision, and admits that the said steamship "Virginian" was proceeding to the port of Tacoma at the time of the collision.

III.

Denies each and every allegation set forth and contained in the fourth paragraph of said cross libel.

IV.

Admits that at the time of the filing of the cross libel herein, the "Strathalbyn" was at the port of Tacoma, State of Washington, within the jurisdiction of this court.

V.

Denies each and every allegation set forth and contained in the seventh paragraph of the cross libel.

Further answering said cross libel, and by reason of the many inaccuracies and errors in the allegations contained therein, and as a further denial thereof, this libellant and claimant avers:

That after passing the steamer "Flyer," and while the "Virginian" and the "Strathalbyn" were approaching, and when the green and red lights of the "Virginian" were visible and her range lights in line, the "Strathalbyn" blew one passing blast of her whistle as a signal to the "Virginian" of her intention to pass port to port, but that thereafter, instead of the "Virginian" responding to said signal, the "Virginian" swung to port and closed her red light and continued to approach the "Strathalbyn," with little, if any, abate-

men in her speed. That the "Strathalbyn" then blew another single, signal blast to signify to the "Virginian" that the "Strathalbyn" intended to pass her port to port. That the "Strathalbyn" ported her helm between the first blast to the "Virginian" and the second, and brought the "Strathalbyn" into a position where she would have passed the "Virginian" had the "Virginian" responded by porting her helm, as she was in duty bound to do, but, instead thereof, the "Virginian" continued to swing to port. Thereupon the "Strathalbyn" blew another single, signal blast to pass the "Virginian" to port, but the "Virginian" failed and neglected to respond thereto, but continued to swing to port, and it then becoming evident that the "Virginian" was failing and neglecting to conform to the rules of the road, after the "Strathalbyn" had again ported her helm, and that there was danger of a collision, the "Strathalbyn" blew the danger signal to the "Virginian." That the "Strathalbyn" was making about six (6) knots an hour when under way just before collision, and that her engines were stopped about the time of blowing the second whistle to the "Virginian," and the "Strathalbyn" continued, solely by reason of her momentum, for about three minutes. That, about the time the "Strathalbyn" gave the danger signal to the "Virginian," her engines were reversed full speed astern, and so remained reversed for about one minute prior to the collision, and were running full speed astern at the time of the collision, and the "Strathalbyn" was practically stationary at the time of the collision. That, at all times after seeing the red and green lights on the "Virginian" from the "Strathalbyn," the "Strathalbyn" continued to show to the "Virginian" her red light, which was burning brightly, as were also her mast head and other signal lights, but the "Virginian" neglected to heed said lights and signals and neglected to stop and reverse in time to avoid the collision, but, on the contrary, ran into the "Strathalbyn" and struck her on the port bow and cut through the same and tore away the port bow forward of the hawse pipe and also the starboard bow for some four frames aft of the collision bulkhead and opened

a hole in the bow of the "Strathalbyn" far below her water line, and greatly damaged her, as is more particularly alleged in the libel herein, and that the said collision was brought about solely by the fault, carelessness and negligence of the "Virginian" in the particulars aforesaid, and without fault, carelessness or negligence on the part of the "Strathalbyn" or of her pilot, officers or crew. That, at all the times since the "Strathalbyn" left Tacoma up to the time of the collision, she was properly equipped and manned with a competent and attentive lookout on her forecastle head and pilot, officers and crew at their respective places.

WHEREFORE, the libellant and cross-claimant herein prays that the libel of the claimant and cross-libellant may be dismissed and that it have and recover nothing herein against this libellant and cross-claimant, and that this libellant and cross-claimant do have and recover its costs and disbursements herein, and that This Honorable Court may be pleased to award it full compensation for the damages it has sustained, according to the prayer of the libel herein, and prays that it may have such other and further relief as in justice and equity it may be entitled to in the premises.

HUFFER, HAYDEN & HAMILTON,
Proctors for libellant and cross-
claimant, Strathalbyn S. S. Co.,
Ltd.

JAMES M. ASHTON, Advocate.
(Verified.) (Filed Feb. 16, 1912.)

In the District Court of the United States, for the Western District of Washington, Southern Division.

No. 1052—IN ADMIRALTY.

LIBEL IN REM.

(Of Strathalbyn Steamship Company, Ltd., as Bailee of Cargo, etc.)

STRATHALBYN STEAMSHIP COMPANY, LTD., a corporation, as bailee of a cargo of lumber consisting of 3,563,011 feet, and for the use and benefit of the owner and insurers of said cargo, Libellant,

VS.

THE STEAMSHIP "VIRGINIAN," her tackle, apparel, furniture, boilers and engines, Respondent.
To the Honorable CORNELIUS H. HANFORD and Honorable GEORGE DONWORTH, Judges of the above entitled court:

The libel and complaint of the Strathalbyn Steamship Company, Ltd., a corporation, as bailee of a cargo of lumber consisting of 3,563,011 feet, and for the use and benefit of the owner and insurers of said cargo against the Steamship "Virginian", her tackle, apparel, furniture, boilers and engines, and against all persons intervening for their interest in the same in a cause of collision, civil and maritime, alleges as follows:

I.

That at all the times herein mentioned, the Strathalbyn Steamship Company, Ltd., was, and is, a corporation of the Kingdom of Great Britain and Ireland, with its principal place of business at Glasgow, Scotland, and was, and is, the owner of the steamship "Strathalbyn", her engines, boilers, tackle and furniture, and that, at all the times hereinafter mentioned, it had in its possession and under its control 3,563,011 feet of lumber as cargo laden aboard said steamship "Strathalbyn" and entrusted to it for transportation to Sidney, New South Wales, and that, as such carrier, the said cargo is now in the possession and control of said Strathalbyn Company, Ltd., and that a large part of said cargo has been damaged by reason of the facts hereinafter stated, and that the said Strathalbyn Steamship Company, Ltd., as bailee of said cargo is authorized to bring this suit as such bailee and for the uses and benefit of the owner and underwriters upon the same.

II.

That the steamship "Virginian", her tackle, apparel, furniture, boilers and engines herein proceeded against, is now within the Western District of Washington and is within the jurisdiction of this court.

III.

That, on Friday night, the 12th of January, 1912, at about the hour of forty-five minutes after seven

o'clock, a collision occurred between the steamships "Strathalbyn" and "Virginian", on Puget Sound, between Robinson Point and Pulley Point.

IV.

That on said 12th day of January, at about the hour of 6:15 o'clock P. M., the "Strathalbyn" left the port of Tacoma, Washington, and started on her voyage for Sidney, New South Wales, with said cargo of lumber thereon destined to said point, the said steamship then being fully equipped, manned and supplied and sea-worthy for the contemplated voyage, with her mast head light and side lights properly set and brightly burning, having a lookout stationed on her forecastle head and in the charge of a competent pilot, master, officers and crew, and having so started on her voyage continued thereon in safety until the light of Robinson Point was abeam, when her course was changed to N. W. $\frac{1}{2}$ N. magnetic. When the "Strathalbyn" was rounding Robinson Point, the light on Pulley Point was visible and also the lights of two vessels that appeared to be to the north of Pulley Point and approaching. That, when the "Strathalbyn" was about half way between Robinson and Pulley Points, she blew one blast of her whistle, and receiving a similar passing blast, passed port to port the steamer "Flyer". That as soon as the steamer "Flyer" had passed the "Strathalbyn", the "Strathalbyn" blew one blast of her whistle as a signal to the "Virginian", then approaching her, to pass her on the port side, both the red and the green side lights of the "Virginian" being at that time visible. That the "Virginian" failed and neglected to answer the signal of the "Strathalbyn", and, after proceeding for or in the neighborhood of a minute, the "Strathalbyn" again blew one blast of her whistle as a passing signal to the "Virginian", and the "Virginian" again failed and neglected to answer the same, the red light of the "Virginian" having theretofore closed, and after giving such second passing whistle to the "Virginian" and receiving no answer, and after having ported the helm of the "Strathalbyn", her engines were stopped. About a minute thereafter, the "Strathalbyn" again sounded one blast of her

whistle as a signal for the "Virginian" to pass her port to port, and the "Virginian" again failed and neglected to answer said signal, but negligently continued to show her green light, whereupon the "Strathalbyn" backed full speed astern and sounded several blasts in quick succession as a danger signal to the "Virginian", and, for the first time, the "Virginian" sounded three blasts of her whistle in answer thereto. That, after a collision became imminent, the "Strathalbyn" did everything in her power to avoid the same, which such efforts were unavailing, and the "Virginian" struck the "Strathalbyn" on the port bow in the vicinity of her hawse pipe and stove a hole in her and continued on through the "Strathalbyn's" bow and tore a hole in her starboard bow and crumpled her plates and broke her frames from her stem back to and including some four or five frames abaft the collision bulkhead on the starboard side, and thereby greatly bent, broke and damaged the whole forward portion of said "Strathalbyn" and thereby caused large quantities of water to flow into and flood the holds of the said steamer "Strathalbyn" and wet and greatly damage the cargo stowed therein. That, by reason of the aforesaid damage to the "Strathalbyn" and to said cargo, it has been necessary to remove the same from the hold of the "Strathalbyn" and large expense has been, and will be, incurred in removing said cargo and restoring the same, and that, by such wetting and handling of said cargo, the same has been, and will be, greatly damaged, and that by reason of the delay in the transportation of said cargo it will be greatly damaged and will be of far less value at the point of destination than if the same had been transported promptly and had not been injured as aforesaid by reason of said collision.

V.

That the said collision was caused by the careless and negligent acts and omissions of the "Virginian", her officers and crew, as aforesaid, and by reason of their failure to respond in answer to the aforesaid signals of the "Strathalbyn", and by reason of their failure to observe the "Strathalbyn" and her lights and to avoid the said collision, and by reason of her wrong-

fully and carelessly changing her course after receiving the aforesaid passing signal from the "Strathalbyn", and by reason of her wrongfully and carelessly running into and bringing about the aforesaid collision, the said cargo has been damaged, and the libellants have, and will, suffer loss and damages in a sum which, at this time, libellant is unable to more definitely state than to allege that said loss and damage will amount to the sum of \$100,000.00.

VI.

That the "Virginian" is a large, steam vessel, with a gross tonnage of, approximately, 7,914 tons, and a net tonnage of, approximately, 5,077 tons. She was partially loaded, but was high in the water compared with the fully loaded "Strathalbyn".

VII.

That all and singular the premises are true and within the admiralty and maritime jurisdiction of this court.

WHEREFORE, libellant prays that process in due form of law according to the practice of This Honorable Court may be issued against the said steamship "Virginian", her tackle, apparel, furniture, boilers and engines, and that she may be condemned and sold to answer for the damage suffered by this libellant, and that all persons having, or pretending to have, any right, title or interest in said steamship "Virginian", her tackle, apparel, furniture, boilers and engines, may be cited to appear and answer all and singular the matters alleged herein, and that This Honorable Court will be pleased to pronounce judgment for the damage suffered and sustained by libellant, and for such other and further relief as shall be just and equitable, and that the libellant may have and recover its costs and disbursements herein.

HUFFER, HAYDEN & HAMILTON,
Proctors for Libellant. P. O. Address: 410 Fidelity Bldg., Tacoma, Washington.

JAMES M. ASHTON, Advocate.
(Verified.) (Filed Feb. 8, 1912.)

No. 1052.
MOTION.

(Of American Hawaiian Steamship Co.)

To the Honorable Judges of the Above Entitled Court:

The American-Hawaiian Steamship Company, a corporation, claimant of the Steamship "Virginia", her tackle, apparel, etc., respectfully shows the Court:

I.

That heretofore the above named libelant Strathalbyn Steamship Company, Ltd., filed its libel, No. 1036, in this Court against the Steamship "Virginian", her tackle, apparel, furniture, boilers and engines, seeking to recover against said Steamship "Virginian", her tackle, etc., damages alleged to have been suffered to said Steamship "Strathalbyn" and to the equipment, gear and property aboard of her and for the loss of the use of said vessel and the cost and expense of removing and replacing her cargo and repairing the damage done thereto and to said vessel, her tackle, apparel, furniture and cargo, in the alleged amount of \$160,000, and thereupon caused process to issue and said steamship "Virginian" to be seized by the marshal of this Court; that thereupon this claimant, American-Hawaiian Steamship Company, a corporation, appeared generally in said cause, claiming said steamship "Virginian", and pursuant to stipulation with proctors for libelant obtained the release of said steamship "Virginian" by executing and filing in said cause its stipulation and bond, with good and sufficient surety, in the penal sum of \$175,000, wherein it undertook and agreed to abide by and perform the order and judgment of this Court in said cause, reference being hereby made to the libel and proceedings in said cause No. 1036 of record and on file in this Court; that the libel of said libelant Strathalbyn Steamship Company, Ltd., in said cause No. 1036 sought to recover damages as aforesaid upon a cause of collision, alleging that the said collision occurred between the steamship "Strathalbyn", owned by the said libelant, and the steamship "Virginian", owned by this claimant, on the evening of January 12, 1912, between Pully Point and Robin-

son Point in Puget Sound, by reason of the alleged fault of the said steamship "Virginian".

II.

That thereafter the said libelant Strathalbyn Steamship Company, Ltd., a corporation, as bailee of cargo on board said steamship "Strathalbyn" at the time of said collision, filed its libel *in rem* herein, being cause in admiralty No. 1052 in this Court, wherein it again sought to recover, as bailee, damages to the cargo on board the said steamship "Strathalbyn" at the time of said collision, and caused process to issue and the said steamship "Virginian" to be seized by the marshal of this Court; and that this claimant, in order to release said steamship "Virginian" from the custody of said marshal, was compelled to furnish and did execute and file with the clerk of this Court its stipulation and bond in the penal sum of \$110,000, conditioned to abide by and perform the judgment and decree of this Court in said cause.

III.

That both of said libels are based upon the same collision and upon the same alleged grounds of negligence and fault on the part of the said steamship "Virginian"; and that the recovery sought by the said libelant in said last named cause No. 1052 may be fully litigated and determined in said first named cause No. 1036 by the said Strathalbyn Steamship Company, Ltd., as bailee, or by the proper intervention of the owners of said cargo, and that no occasion or necessity exists for the prosecution of separate or independent libel or proceeding therefor or for requiring this claimant to furnish bond or make separate defense thereto.

WHEREFORE, this claimant, American-Hawaiian Steamship Company, a corporation, moves the Court to dismiss said libel No. 1052 and cancel the bond of claimant therein, and tax the costs thereof to the said libelant Strathalbyn Steamship Company, Ltd., or, if said motion be denied, that the said causes Nos. 1036 and 1052 be consolidated by the order of this Court, to the end that they may be heard and determined as one cause. This motion is based upon the records and

files in this cause No. 1052 and in the said cause in admiralty No. 1036.

BOGLE, GRAVES, MERRITT & BOGLE,
HUGHES, McMICKEN, DOVELL & RAMSEY,
Proctors for Claimant.

(Filed Feb. 26, 1912.)

No. 1036.

No. 1052.

MEMORANDUM DECISION ON CLAIMANT'S
MOTION TO DISMISS CAUSE NO. 1052 OR
TO CONSOLIDATE CAUSES NO. 1036
AND NO. 1052.

HUFFER, HAYDEN & HAMILTON and J. M. ASHTON,
For Libelants.

BOGLE, GRAVES, MERRITT & BOGLE, and HUGHES, Mc-
MICKEN, DOVELL & RAMSEY,
For Claimant.

DONWORTH, District Judge.

The American-Hawaiian Steamship Company, claimant in these two causes, has moved that the libel in cause No. 1052 be dismissed with costs to claimant, and that the bond given by claimant in that cause for the release of the steamship "Virginian" be cancelled, or, in the alternative, that the two causes, No. 1036 and No. 1052, be consolidated to the end that they may be heard and determined as one cause.

The first branch of the motion is based on the ground that the second libel, cause No. 1052, is merely an amplification of a part of the demand asserted in the first libel, cause No. 1036, it being urged that the damage to the cargo of the "Strathalbyn", which is the sole demand asserted in the second libel, is really embraced in the first libel along with the demand for damage to the ship. I do not deem it necessary to decide at this time the question thus raised. Whatever foundation there may be for the contention, it can better be determined when the controversy is heard on the merits. The Court can then make any order that the justice of the case may require. A motion to dismiss *in limine* should not be granted except in a clear case involving an abuse of the process of the Court. I am not prepared to rule that the first libel filed by

libellant apparently for its own sole benefit would bar a second suit in which it sues as bailee for the owners of the cargo. I shall, therefore, not undertake to express any opinion as to the true interpretation of the libels in this respect or the propriety of the second suit. The motion to dismiss is denied.

The two libels arise out of the same collision and the issues in each are such that substantially the same evidence will determine the two causes. This is a clear case for the exercise of the discretionary power of the Court for the consolidation of causes of a like nature or relative to the same question. *R. S. Section 921. 4 Fed. Stat. Anno. 587. The North Star*, 106 U. S. 27. *The Nahor*, 9 Fed. 213. The two causes will therefore be consolidated and will hereafter proceed as one cause.

At the argument of this motion reference was made to the question of the effect of a consolidation of the causes upon such steps as claimant may see fit to take under Admiralty Rules 53 and 59. This question is not now before me. The causes will be consolidated and any motion that claimant may make under either of these rules will be determined in due course.

Let a formal order be drawn and submitted in accordance with this ruling.

GEORGE DONWORTH, Judge.

(Filed March 7, 1912.)

In the District Court of the United States, for the Western District of Washington, Southern Division.

IN ADMIRALTY.

No. 1036.

ORDER OF CONSOLIDATION.

(Of Causes No. 1036 and 1052.)

No. 1052.

STRATHALBYN STEAMSHIP COMPANY, LTD., a corporation,
Libellant,

vs.

THE STEAMSHIP "VIRGINIAN", her tackle, apparel,
furniture, boilers and engines,
Respondent,

AMERICAN-HAWAIIAN STEAMSHIP COMPANY, a corporation, Claimant.

STRATHALBYN STEAMSHIP COMPANY, LTD., a corporation, as bailee of a cargo of lumber consisting of 3,563,011 feet and for the use and benefit of the owner and insurers of said cargo, Libelant,

vs.

THE STEAMSHIP "VIRGINIAN", her tackle, apparel, furniture, boilers and engines, Respondent,

AMERICAN-HAWAIIAN STEAMSHIP COMPANY, a corporation, Claimant.

Upon motion of American-Hawaiian Steamship Company, as claimant in each of the above entitled causes, it is hereby ORDERED that said cause No. 1052 be consolidated with said cause No. 1036, and that all further proceedings therein shall be had in said causes so hereby consolidated.

Done in open Court this 18th day of March, 1912.

GEORGE DONWORTH, Judge.

(Filed March 18, 1912.)

No. 1052—PETITION.

(Of American-Hawaiian Steamship Co.)

To the Honorable Judges of the Above Entitled Court:

The petition of the American-Hawaiian Steamship Company, a corporation, the above named claimant, respectfully shows:

I.

That it is a corporation organized and existing under the laws of the State of New Jersey and is the owner of the steamship "Virginian".

II.

That on or about the day of January, 1912, the above named libelant filed its libel *in rem* in this Court against the steamship "Virginian", her tackle, apparel, etc., as respondent, being cause No. 1036 in this Court, wherein it caused process to issue and the said steamship "Virginian" to be seized by the marshal of this Court, and thereupon your petitioner herein, as claimant and owner of said steamship "Vir-

ginian", entered its appearance and executed and filed in said cause its stipulation and bond for the release of said steamship in the penal sum of \$175,000, conditioned to abide by and perform the judgment and decree of this Court in said cause; that in and by said libel the said libelant sought to recover against steamship damages to the steamship "Strathalbyn" and to its equipment, gear, and property aboard of her, and for repairing damage done to said vessel and her cargo, in the sum of \$160,000, for the alleged fault of the said steamship "Virginian" in a certain collision occurring between said steamships on the evening of January 12, 1912, between Pully Point and Robinson Point in Puget Sound within this District.

III.

That thereafter on or about the 8th day of February, 1912, the said libelant, Strathalbyn Steamship Company, Ltd., as bailee of cargo aboard said steamship "Strathalbyn" at the time of said collision, filed its further libel in this Court against the steamship "Virginian", her tackle, apparel, etc., being cause No. 1052 of this Court, wherein it sought to recover, as bailee of the owners, for alleged damages to said cargo, in the sum of \$100,000, and caused process to issue and said steamship "Virginian" to be seized thereunder; and that your petitioner appeared therein as the owner of said steamship "Virginian" and executed and filed in said cause its bond for the release of said steamship in the penal sum of \$110,000, conditioned that it would abide by and perform the decree of this Court in said cause.

IV.

That the said last mentioned libel is a suit for damages alleged to have been suffered by the owners of cargo aboard the steamship "Strathalbyn" by collision between the said steamship "Strathalbyn" and the said steamship "Virginian" in the waters of Puget Sound between Pully Point and Robinson Point on the evening of January 12, 1912, and your petitioner avers that the facts in relation thereto are as follows, to-wit: That at about 6:40 P. M. on the evening of January 12, 1912, said steamship "Virginian",

having aboard about 2,000 tons of cargo destined for foreign ports, left the port of Seattle and proceeded on her way to the port of Tacoma, and said steamship then and at all the times hereinafter mentioned was fully equipped and manned and supplied with good and sufficient range and side lights, properly set and brightly burning, and having a lookout stationed on her forecastle head, and was in charge of a competent pilot, master, officers and crew; that after rounding Al-ki Point she proceeded on a course SE by S, magnetic, until she approached Pully Point, when she hauled to the westward for the purpose of keeping well off said Point, and that she was abeam of said Point at 7:53 P. M. by the ship's time and about a half mile distant therefrom; whereupon, she straightened out her course for Point Robinson to SE $\frac{1}{4}$ S magnetic, upon which course she proceeded until the happening of the collision herein mentioned; that when abreast of Pully Point she was overtaken and passed by the steamship "Flyer" on her way from Seattle to Tacoma, which said steamship hauled off to the right, passing on the starboard side of the steamship "Virginian" with a clearance of about 100 yards, said steamship "Flyer" giving one blast of her whistle, to which an answering blast was given by the steamship "Virginian", the steamship "Flyer" then proceeding on her way; that after said steamship "Flyer" had passed by the steamship "Virginian" and was about an eighth of a mile ahead and on the starboard bow of the "Virginian", the pilot and third officer on the bridge of the "Virginian" heard one blast of a whistle given from some vessel ahead but whose lights were not visible, which blast was immediately answered by the steamship "Flyer"; that about a minute thereafter they again heard one blast of a whistle from some point ahead and to the port side of the steamship "Flyer"; that being unable to see any ship's lights or to distinguish the vessel from which said blasts proceeded, the pilot immediately ordered the engines of the steamship "Virginian" stopped, and thereupon took up his glasses and searched the waters ahead of him for the purpose of discovering from

what vessel said blast proceeded; that neither the pilot nor the third officer being able to see the lights of any ship ahead and receiving no call or information from the lookout, the pilot thereupon immediately ordered the engines reversed full speed astern, at which time another blast was given from some point ahead; that a short time thereafter the pilot and other officers of the "Virginian" being still unable to discover the light of the vessel from which said blasts proceeded or to discover or locate the position thereof, four blasts were heard from a point ahead and were immediately answered by three blasts of the whistle of the "Virginian", signifying that her engines were going full speed astern; that a few seconds later the said steamship "Strathalbyn" loomed out of the darkness immediately in front of the "Virginian", and the two vessels forthwith came into collision, head on or nearly so, said steamship "Virginian" being struck on her starboard bow just abaft her stem, listing her to port; that at the time of said collision the engines of the steamship "Virginian" had been reversed full speed astern about two minutes or more, and she immediately after the collision began backing from the steamship "Strathalbyn"; that the night was dark, and at the time of said collision and for some little time prior thereto the sky was overcast, and rain began to fall shortly thereafter; that the said collision occurred without fault on the part of the steamship "Virginian", her officers or crew, but solely because the said steamship "Strathalbyn" did not at said time have starboard and port lights or any masthead or range lights properly placed and lighted, as required by law, so as to render said ship visible to an approaching vessel in the night time, and because the said steamship "Strathalbyn", receiving no answer to the single blast of her whistle, was advised that she could not be located by the steamship "Virginian", and negligently proceeded on her course.

V.

That the damages, if any, occasioned by said collision to said cargo aboard the said steamship "Strathalbyn" were caused through the sole negligence and

fault of the said steamship "Strathalbyn", her officers and crew, in failing to maintain upon said ship signal lights, properly placed, lighted and brightly burning, as required by law, and in not properly navigating said steamship after failing to receive a response to her passing signal from the steamship "Virginian"; for which damages, if any, said steamship "Strathalbyn" is directly liable to the owners of said cargo, and for which damages, if any, said steamship "Strathalbyn" is likewise directly liable to this petitioner if this petitioner shall be found liable to the owners of said cargo.

VI.

That after the said collision the said steamship "Strathalbyn" returned to the port of Tacoma, where she discharged a portion of her cargo of lumber, but that subsequently and before the filing of the libel of the Strathalbyn Steamship Company, Ltd., as bailee for the owners of said cargo in said cause No. 1052, the said steamship proceeded out of the jurisdiction of this Court to the port of Victoria in the Province of British Columbia, for the alleged purpose of repairing her damages, but petitioner is informed and believes that it is the intention of the said libelant to cause said steamship "Strathalbyn" to be returned to the port of Tacoma, within the jurisdiction of this Court, upon the completion of her repairs, for the purpose of taking aboard the cargo so unladen therefrom before proceeding upon the voyage upon which she was bound at the time of said collision.

VII.

That all and singular the premises are true and within the jurisdiction of this Court.

WHEREFORE, your petitioner prays that process may issue according to the practice of this Court and the rules of the Supreme Court in admiralty against the steamship "Strathalbyn", her engines and boilers, to the end that the said steamship may be proceeded against in this suit for the damages alleged to have been sustained by the owners of the cargo on said steamship at the time of said collision as if said steamship had been originally proceeded against herein.

And your petitioner further prays that in the

event the said libelant should refuse to bring said steamship within the jurisdiction of this Court and should thereby seek to evade its process herein, that an order be entered herein requiring said Strathalbyn Steamship Company, Ltd., to give security in the usual amount and form, to respond in damages for whatever sum may be adjudged against it on account of loss or injury to the owners of said cargo, and in case of the failure or refusal of said Strathalbyn Steamship Company, Ltd., so to do that all proceedings upon the original libel of said Strathalbyn Steamship Company, Ltd., against the steamship "Virginian" in said cause No. 1036 (but not upon the cross-libel of petitioner in said cause) be stayed until such security be given herein; and your petitioner further prays that all persons claiming any interest in said steamship be cited to appear and answer the libel filed herein on behalf of said cargo owners and this petition, and that said steamship be condemned and sold to satisfy the claim of said cargo owners for damages, if any, with interest and costs, and also the costs of this petitioner herein, and that this petitioner may have such other and further relief as may to the Court seem meet and proper.

AMERICAN-HAWAIIAN STEAMSHIP COMPANY,
Petitioner.

By BOGLE, GRAVES, MERRITT & BOGLE,
HUGHES, McMICKEN, DOVELL & RAMSEY,
Its Proctors.

(Filed March 13, 1912.)

No. 1036.

STIPULATION AS TO ANSWER OF AMERICAN-HAWAIIAN STEAMSHIP COMPANY
IN CAUSE NO. 1052.

No. 1052.

IT IS STIPULATED AND AGREED that the allegation of the petition filed in Cause No. 1052 by the American-Hawaiian Steamship Company, a corporation, claimant of the steamship "Virginian", may be taken and considered as the answer of said claimant to the libel filed in said cause by Strathalbyn Steamship Company, Ltd., a corporation, as bailee, etc.

Dated this 26th day of November, A. D. 1915.

BALLINGER, BATTLE, HURLBURT &
SHORTS,

MCCUTCHEON, ONEY & WILLARD AND
IRA A. CAMPBELL,

Proctors for Strathalbyn Steam-
ship Company, Ltd., a corpora-
tion, as bailee, etc., Libelant in
Cause No. 1052.

BOGLE, GRAVES, MERRITT & BOGLE,
Proctors for American-Hawaiian
Steamship Company, a corpora-
tion, Claimant in Cause No. 1052.

HUFFER & HAYDEN,
Proctors for Strathalbyn Steam-
ship Company, Ltd., a corpora-
tion.

(Filed December 4, 1915.)

No. 1036.

No. 1052.

CONSOLIDATED CASES.

Answer of Strathalbyn Steamship Co., Ltd., to Peti-
tion of American-Hawaiian Steamship Co., Which
Petition Cites the Steamship "Strathalbyn"
Into the Cargo Case.

To the Honorable, the Judges of the Above Entitled
Court:

The answer of the Strathalbyn Steamship Com-
pany, Ltd., claimant of the steamer "Strathalbyn", to
the petition of the American-Hawaiian Steamship
Company, a corporation, claimant of the steamship
"Virginian", in the suit of the Strathalbyn Steamship
Company, Ltd., as bailee of a cargo, etc., versus the
steamship "Virginian", respectfully shows and alleges:

I.

Admits that on the — day of January, 1912,
the Strathalbyn Steamship Company, Ltd., filed its
libel *in rem* in this Court against the steamship "Vir-
ginian", her tackle, apparel, etc., as respondent, being
cause No. 1036, and caused process to issue and said
steamship to be seized and that thereafter the Ameri-

can-Hawaiian Steamship Company, as claimant and owner of said steamship "Virginian", entered its appearance and executed and filed in said cause the stipulation and bond for the release of said steamship in the penal sum of \$175,000.00, condition to abide by and perform the judgment and decree of said Court in said cause; and admits that in and by said libel, the said libelant sought to recover against said steamship "Virginian" damages suffered by the steamship "Strathalbyn", its equipment and its property aboard of her, and for repairing damage done to said vessel in a certain collision occurring between the steamships "Virginian" and "Strathalbyn" on the twelfth of January, 1912, between Pully Point and Robinson's Point in Puget Sound, within this District, and denies each and every other allegation in said paragraph.

II.

Admits the allegation set forth and contained in the third paragraph of said petition.

III.

Admits that the libel mentioned in paragraph Three of said petition is a suit for damages alleged to have been suffered by the owners of cargo aboard the steamship "Strathalbyn" by collision between the said steamship "Strathalbyn" and the said steamship "Virginian" in the waters of Puget Sound, between Pully Point and Robinson's Point on the evening of January 12th, 1912, and denies each and every other allegation set forth and contained in the fourth paragraph of said petition, and requires the said petitioner to make proof of said allegations except those which are hereinafter expressly admitted; admits that the said steamship "Virginian", at the time of the accident was equipped with good and sufficient range and side lights and that said lights were burning so as to be visible to those on board the "Strathalbyn"; that by reason of the manifold inaccuracies in the allegations set forth and contained in said fourth paragraph, and by way of denial thereof, this libelant alleges the truth to be as follows:

That on said twelfth day of January, 1912, the said steamship "Strathalbyn" was fully equipped, manned and supplied, with masthead and side lights

properly set and brightly burning, having a lookout stationed on her forecastle head, and in charge of a competent pilot, master, officers and crew, and was proceeding to sea from the port of Tacoma, and in the course of such voyage passed Robinsons Point, where she changed her course to northwest, a half north magnetic, and when rounding Robinson's Point a light on Pully Point was visible and also the lights of two vessels which appeared to be to the north of Pully Point and approaching. When the "Strathalbyn" was about half way between Robinson's and Pully Points she blew one blast of her whistle, receiving a similar answering blast from and passed port to port of the steamer "Flyer". That, as soon as the steamer "Flyer" had past the "Strathalbyn", the "Strathalbyn" blew one blast of her whistle as a signal to the "Virginian" to pass her on the port side, both the red and the green lights of the "Virginian" being at that time visible and the vessels approaching each other about head on, or nearly so. That the "Virginian" failed and neglected to answer the signal of the "Strathalbyn", and after proceeding in the neighborhood of a minute, the "Strathalbyn" again blew one blast of her whistle as a passing signal to the "Virginian" and the "Virginian" again failed and neglected to answer the same, the red light on the "Virginian" having theretofore been closing. After giving such second passing whistle to the "Virginian" and receiving no answer, and after having ported the helm of the "Strathalbyn", her engines were stopped; that about a minute thereafter the "Strathalbyn" again sounded one blast of her whistle as a signal for the "Virginian" to pass her port to port, and the "Virginian" again failed and neglected to answer said signal, her green light then being the only one visible, and the "Strathalbyn" then backed full speed astern and sounded several blasts in quick succession as a danger signal to the "Virginian", and for the first time the "Virginian" sounded three blasts upon her whistle in answer thereto. That after a collision became imminent, the "Strathalbyn" did everything in her power to avoid the same, but such efforts were unavailing and the "Virginian" struck

the "Strathalbyn" on the port bow in the vicinity of the haus-pipe, stove a hole in her and continued on through the "Strathalbyn's" bow, tore a hole in her starboard bow, crumpled her plates, broke and bent her frames and beams from her stem back, to and including several frames abaft the collision bulkhead, and thereby generally bent, broke and damaged the whole forward portion of the "Strathalbyn", including her windlass, forecastle and other parts of the forward part of said vessel and caused the loss of and damage to a large quantity of cargo, machinery and property, as well as injuring several of her crew and causing the death of one of them. That after said collision, the "Strathalbyn" put back to Tacoma.

That at all the times mentioned herein, prior to said collision and at the time of said collision, the masthead light and side lights of said "Strathalbyn" were properly set and brightly burning, a lookout was stationed and attending to his business on her fore-castle head, she was in charge of a competent pilot, master and crew, who were at their respective posts and properly and attentively attending to their several duties, and the "Strathalbyn" was in every manner well manned and fitted for the voyage, and that the collision occurred without any fault on her part, but solely by reason of the fault, carelessness and neglect of the "Virginian" in failing to discover the said steamship "Strathalbyn" and to observe and recognize her lights, and in maintaining insufficient lookout, in negligently navigating said vessel and in failing to keep away from the "Strathalbyn."

IV.

Denies each and every allegation set forth and contained in the fifth paragraph of said complaint.

V.

Denies each and every allegation set forth and contained in the sixth paragraph of said complaint, except it admits that after the collision aforesaid the "Strathalbyn" returned to the port of Tacoma, where she discharged a portion of her cargo of lumber, and that subsequently, and before the filing of the libel on the Strathalbyn Steamship Company, Ltd., as bailee

for the owners of said cargo in said cause No. 1052, the "Strathalbyn" proceeded to Victoria for the purpose of repairing her damage, and thereafter returned to the port of Tacoma to take on board the portion of the cargo of lumber discharged at said last mentioned port after the collision.

VI.

Denies each and every allegation set forth and contained in the seventh paragraph of said libel, except that this Court has jurisdiction.

WHEREFORE, this libelant prays that the petition aforesaid of the American-Hawaiian Steamship Company be dismissed and that this answering claimant herein be discharged and his bondsmen released and exonerated, and that it have and recover its costs and disbursements herein against the American-Hawaiian Steamship Company and its bondsmen, and for such other and further relief as is just.

STRATHALBYN STEAMSHIP COMPANY, LTD.,

A Corporation, Claimant,

By W. H. HAYDEN,

One of Its Proctors.

HUFFER & HAYDEN,

Proctors for Strathalbyn Steamship
Company, Ltd.

(Filed March 20, 1914.)

Nos. 1036 and 1052.

ANSWER OF STRATHALBYN STEAMSHIP
COMPANY, LTD., TO LIBEL OF STRATH-
ALBYN STEAMSHIP COMPANY, LTD.,
AS BAILEE OF THE CARGO.

To the Honorable, the Judge of the Above Entitled
Court:

The answer of the Strathalbyn Steamship Company, Ltd., a corporation, claimant of the steamship "Strathalbyn", seized pursuant to the petition of the American-Hawaiian Steamship Company, a corporation, filed herein, to the libel of the Strathalbyn Steamship Company, Ltd., a corporation, as bailee of the cargo of lumber consisting of 3,563,011 feet, and for the use and benefit of the owner and insurers of said cargo and freight thereon, alleges:

I.

Admits the first paragraph of said libel and alleges that the said Strathalbyn Steamship Company on the ninth day of December, 1911, made and entered into a contract of charter-party with the American Trading Company (Pacific Coast), of San Francisco, for the carriage of the cargo on board the said steamship "Strathalbyn" on the twelfth day of January, 1912, and at the time of said collision, and a copy of said charter-party is attached hereto, marked "Exhibit A", and the terms, conditions and provisions thereof are hereby referred to and hereby made a part of this paragraph as though fully set forth herein.

II.

That said charter-party, among other things, provides: "That the charterers shall provide and pay for * * * pilotages * * * when incurred, also all charges appertaining to the cargoes they may put on board." Also "That in the event of loss of time from deficiency of men or stores, breakdown of machinery, collision, docking, stranding, or other accident or damage preventing the working of the vessel for more than twenty-four consecutive hours, the time lost shall be allowed to the charterers; including first 24 hours, and if such detention shall exceed thirty days, charterers to have the option of cancelling this charter." Also "The act of God, perils of the sea, fire barratry of the master and crew, enemies, pirates and thieves, arrests and restraints of princes, rulers and people, collisions, stranding, and other accidents of navigation excepted, even when occasioned by negligence, default or error in judgment of the pilot, master, mariners, or other servants of the shipowners."

III.

That the said Steamship "Strathalbyn" was fully equipped and was burning a masthead light and port and starboard side lights, and that the said Strathalbyn Steamship Company, Ltd., exercised due diligence to make the said vessel in all respects seaworthy and properly manned, equipped and supplied. That the said Steamship "Strathalbyn" was being navigated and managed by a pilot selected and paid by the charterer,

as in said charter-party provided, but if there was any fault on the part of the Steamship "Strathalbyn" in the navigation and management of said vessel at and about the time of the collision with said steamship "Virginian", neither the said Steamship "Strathalbyn" nor the Strathalbyn Steamship Company, Ltd., is liable for any damage or loss resulting from any fault or error in the navigation or management of said vessel.

IV.

Admits the allegations set forth and contained in the second, third and fourth paragraphs of said libel, except that it alleges by way of denial that the damage to said cargo and loss set forth in said libel turned out to be much less than anticipated when the said libel was filed, and therefore requires the libelant to make proof of his loss and damage as he may see fit, if the same is pertinent so far as this answering claimant is concerned.

V.

Admits the allegations set forth and contained in the fifth paragraph of said libel, except it denies that the loss suffered by said libelant amounted to the sum of \$100,000.00, and requires the libelant to make proof of his actual damage, if the same is pertinent so far as this answering claimant is concerned.

VI.

Admits the allegations set forth and contained in the seventh paragraph of said libel.

WHEREFORE, this answering libelant prays that it may be dismissed and discharged from this action, and have and recover its costs and disbursements herein, and for such other and further relief as may be just and equitable.

STRATHALBYN STEAMSHIP COMPANY, LTD.,

A Corporation, Claimant.

By W. H. HAYDEN,

One of Its Proctors.

HUFFER & HAYDEN,

Proctors for Strathalbyn Steamship

Company, Ltd.

(Verified.)

EXHIBIT "A".
CHARTER-PARTY.

David Bruce & Co.,
Ship & Insurance Brokers, London, Dec. 9, 1911.
London.

IT IS THIS DAY MUTUALLY AGREED between The Strathalbyn Steamship Co., Limited, agents for Owners of the Steamship or Vessel called the "Strathalbyn", of 433 Tons gross Register, and 2804 Tons net Register, classed Highest Class British Corporation and guaranteed to carry 7200 Tons dead weight of cargo and fuel inclusive, on Lloyd's summer freeboard, due at San Francisco 11th instant to discharge, and American Trading Company (Pacific Coast), San Francisco, Merchants and Charterers.

That the former party agree to let, and the latter agree to hire, the said Steamship "Strathalbyn" for the term of one trip as below. The hire to commence from the day on which she is delivered or placed at the disposal of the Charterers (but not before the 20th December, 1911, if required), at San Francisco in such dock or such safe Wharf or place (where she may always safely lie afloat), as Charterers may direct, she being then ready with clear holds, tight, staunch, strong, and having been newly painted on July 3rd, 1911, and every way fitted for the service (and with full complement of officers, seamen, engineers and firemen for a vessel of her tonnage); to be employed in such lawful trades as Charterers or their Agents shall direct at and from San Francisco to North Pacific ports (Alaska excluded) and thence to port or ports in Australia and until redelivered to owners at a port between Newcastle, N. S. W., and Port Pirie (both included), port of redelivery to be named on delivery of steamer, on the following conditions:

That the Owners shall provide and pay for all Provisions and Wages of the Captain, Officers, Engineers, Firemen and Crew; shall pay for the Insurance on the Vessel and Consular Fees; also for all Deck, Galley and Engine Room Stores, bunker coal excepted, and maintain her in a thoroughly efficient state in Hull and Machinery for the service.

That the Charterers shall provide and pay for all Bunker Coals, Port, Light and Dock Charges, Pilotages, Agencies, Commissions, Labourage, Suez and other Canal Dues when incurred, also all charges appertaining to the cargoes they may put on board.

That the Charterers shall accept and pay for Coal in Ship's Bunkers upon commencement of hire, quantity not to exceed 250 tons at \$6.00 per ton, and the Owners shall, on expiry of this Charter-Party, pay for all Coal then left in the Bunkers, at current market price of the Port where the hire ends.

That the Charterers shall pay for the use and hire of the said Vessel at and after the rate of Four Shillings per ton on guaranteed deadweight as above, per calendar month, payment to be made in Cash in advance monthly, commencing on the day of delivery as aforesaid, hire to continue from the time specified for terminating the Charter until her re-delivery to Owner (unless lost) at a port in Australia, between Newcastle, N. S. W., and Port Pirie (both included) and to be payable in San Francisco, or at Owners' option by telegraphic transfer on London at their expense. Christmas Day and New Year's Day not to count, if in port.

Should the Vessel be on a voyage occupying more time than herein stipulated, the rate of hire for such additional period to be in the same proportion as above, and if re-delivered with Owners' consent before the expiration of the time stipulated, a corresponding rebate of hire to be allowed.

In default of punctual and regular payment or payments as herein specified, the Owners shall have the faculty of withdrawing the Vessel from the service of the Charterers, without prejudice to any claim they may otherwise have on the Charterers, in pursuance of this Charter.

That the Cargo or Cargoes shall be laden and/or discharged in any dock, or at any Wharf or place that Charterers may direct where the Vessel can always safely lie afloat.

That the whole reach, burthen and passenger accommodation, if any (for cattlemen and cabin pas-

sengers), of the Ship (not being more than she can reasonably stow and carry) shall be at the Charterers' disposal, reserving only proper and sufficient space for Ship's Officers, Crew, Tackle, Apparel, Furniture, Provisions and Stores. The Steamer to give the entire deck space for Stock. Ballast Tanks to be at the disposal of Charterers for conveyance of fresh water. Steamer not responsible for mortality, nor for Stock washed overboard. Charterers to have the privilege of loading any usual lawful deck cargo to be carried at Charterers' and/or Shippers' risk.

That the Captain shall prosecute his voyages with the utmost despatch, and shall render all customary assistance with any cranes and/or winches the Steamer has, also with her crew and boats (and likewise work the condenser when required), and when in port to work from 7 A. M. to 7 P. M., or during such hours as Charterers or their Agents may require, Charterers paying usual overtime. Charterers to provide and pay for winch drivers.

That the Captain shall be under the orders and direction of the Charterers as regards employment, agency, or other arrangements; and shall sign Bills of Lading as presented, and at any rate of freight the Charterers or their Agents may choose, without prejudice to this Charter-Party; and the Charterers hereby agree to indemnify the Owners from any consequences and liabilities that may arise from the Captain signing such Bills of Lading, or in his otherwise following the Charterers' instructions.

Owners to provide all ropes, falls, blocks and slings necessary for handling ordinary cargoes up to three tons weight, also sufficient lanterns for night work. Should Ship or Cargo be damaged through insufficiency or inefficiency of the Steamer's tackle, the loss or damage so occasioned to be assured or paid for by Owners.

That if the Charterers shall have reason to be dissatisfied with the conduct of the Captain, Officers, or Engineers, the Owners shall, on receiving particulars of the complaint, investigate the same, and, if necessary, make a change in the appointments.

That the Master shall be furnished from time to time with all requisite instructions and sailing directions, and shall keep a full and correct log of the voyage or voyages, which are to be patent to Charterers or their Agents.

That the Owners shall not be responsible for damage to or claims on cargo caused by bad stowage, the stevedores being employed by the Charterers.

Average, if any, to be settled according to York-Antwerp Rules, 1890.

That in the event of loss of time from deficiency of men or stores, breakdown of machinery, collision, docking, stranding, or other accident or damage preventing the working of the Vessel for more than twenty-four consecutive hours, the time lost shall be allowed to the Charterers; including first 24 hours, and if such detention shall exceed thirty days, Charterers to have the option of cancelling this Charter; but should the vessel be driven into port or to anchorage by stress of weather, or from accident to the Cargo, such detention or loss of time shall be at the Charterers' expense.

That should the Vessel be lost, the hire is to cease and determine on the day of her loss, and if missing from the date when last heard of, and any hire paid in advance and not earned shall be returned to Charterers.

That the ship has liberty to call at any ports in any order, to sail with or without pilots, and to tow and to assist Vessels in any situation, and to deviate for the purpose of saving life or property.

The Act of God, perils of the sea, fire, barratry of the Master and crew, enemies, pirates and thieves, arrests and restraints of princes, rulers and people, collisions, stranding, and other accidents of navigation excepted, even when occasioned by negligence, default or error in judgment of the Pilot, Master, Mariners, or other Servants of the Shipowners.

Ship not answerable for losses through explosion, bursting of boilers, breakage of shafts, or any latent defect in the machinery or hull, not resulting from

want of due diligence by the Owners of the Ship, or any of them, or by the Ships Husband or Manager.

That should any dispute arise between the Owners and Charterers as to the meaning and intention of this Charter-Party, or as to any act or thing to be done thereunder, the matter in dispute shall be referred to two Commercial persons in London, one to be appointed by each of the parties hereto in accordance with the provisions of the Arbitration Act, 1889, or any subsequent modifications thereof.

That the Owners shall have a lien upon all cargoes and sub-freights for arrears of hire, port charges, or any disbursements, coals, etc., unpaid, and Charterers to have a lien on the Ship for all moneys paid in advance and not earned.

That all salvages and derelects shall be for Owners' and Charterers' equal benefit.

In the event of war being declared during the currency of this Charter, by or against the nation to which the Steamer belongs, Charters to have the option of cancelling this Charter, and also the option of cancelling if Steamer is not delivered as above in seaworthy condition on or before January 20th, 1912, but hire not to commence before December 20, 1911, if required by Charterers.

Six and one-quarter per cent. commission is due on amount of Freight under this Charter, and any subsequent arrangements with same Principals, to David Bruce & Co., London, of which 5% to charterers, that for the first fixed period being payable on payment of freight herefor under this Charter-Party, vessel lost or not lost.

No Colonial or inter-Colonial trading, or not north of Vancouver.

Penalty for non-performance of this Contract estimated amount of damages.

Note A:—Owners to have liberty of bunkering vessel at Newcastle, Australia, declarable before steamer bunkers in North Pacific.

Note B:—Port charges at Newcastle, and time between arrival at and departure from aforesaid port

of Newcastle, to be for and account of owners, and to be deducted from hire due Owners.

Note C:—Should Owners take bunkers at Newcastle they are to supply Charterers with any extra bunkers they may require on the voyage between Newcastle and Port Pirie, and the Charterers to pay for such extra bunkers required at four shillings Stg. per ton of 2240 lbs. above actual cost of coal to Owners.

Note D:—Expense of lighterage incurred at Port Pirie, if any, owing to vessel bunkering at Newcastle, to be for and account of Owners.

(Signed) For The "Strathalbyn" Steamship Co., Ltd.,
Burrell & Sons, Managers, 11/12/11.

By Cable Authority.

For and on behalf of American Trading
Co. (Pacific Coast), San Francisco.

David Bruce & Co., as Agents.

Witness to signature of David Bruce & Co.,

D. L. Raitt.

(The original Charter-Party is in the possession
of Shallett Dale & Co.)

(Filed March 18, 1914.)

No. 1036.

STIPULATION TO TAKE TESTIMONY AT GLASGOW IN BEHALF OF LIBELLANTS.

IT IS HEREBY STIPULATED AND AGREED by and between counsel for the respective parties hereto that the depositions of George T. Crerar, John Purdie, John B. Bodie (and such other witnesses as may appear for and in behalf of the libellants herein to answer the interrogatories propounded to John B. Bodie) may be taken before the Honorable John M. McCunn, the American Consul at Glasgow, Scotland, or before Alfred Middleton, Deputy American Consul at Glasgow, Scotland, or either or both of them, upon the interrogatories and cross-interrogatories attached hereto.

IT IS FURTHER AGREED that the said American Consul or Deputy American Consul is not a proctor, attorney or counsellor for the parties hereto, and is not interested in the event of this cause.

IT IS FURTHER STIPULATED AND AGREED that after the witnesses deposing pursuant hereto are duly cau-

tioned and sworn, that the testimony may be taken in shorthand and transcribed by the said American Consul or Deputy American Consul or each or both of them, and after being so transcribed may be returned to the above entitled court without being subscribed by the witnesses, the signatures of the witnesses thereto being expressly waived.

IT IS HEREBY FURTHER STIPULATED AND AGREED that such testimony may be considered and used in evidence in this cause, subject to all objections, except as to form of the questions.

IT IS FURTHER STIPULATED AND AGREED that upon the completion of the taking of such depositions, the said American Consul or Deputy Consul or either or both of them shall return the same in a sealed envelope together with this stipulation and the interrogatories and cross-interrogatories attached hereto to the above entitled court, addressing an envelope containing the same to "Hon. Frank Crosby, Clerk of the District Court of the United States for the Western District of Washington, Tacoma, Washington," and writing across the end of the envelope or package the title of the cause and "Depositions of Libellant's witnesses".

Done this 31st day of December, 1912.

HUFFER, HAYDEN & HAMILTON,
Proctors for libellant herein.

BOGLE, GRAVES, MERRITT & BOGLE,
Proctors for respondent and claimant herein.

No. 1036.

INTERROGATORIES TO BE ADMINISTERED
TO GEORGE T. CRERAR, A WITNESS TO BE
PRODUCED, SWORN AND EXAMINED IN
A CERTAIN CAUSE OF ADMIRALTY AND
MARITIME JURISDICTION NOW ENDING
IN THE DISTRICT COURT OF THE UNITED
STATES FOR THE WESTERN DISTRICT OF
WASHINGTON, SOUTHERN DIVISION,
WHEREIN STRATHALBYN STEAMSHIP
COMPANY, LTD., A CORPORATION, IS
LIBELLANT AGAINST THE STEAMSHIP
"VIRGINIAN", HER TACKLE, APPAREL,

FURNITURE, BOILER AND ENGINES, RESPONDENT, AND THE AMERICAN HAWAIIAN STEAMSHIP COMPANY, A CORPORATION, CLAIMANT, ON THE PART AND BEHALF OF THE LIBELLANT.

FIRST INTERROGATORY.

What is your name, age, place of residence and business or profession?

SECOND INTERROGATORY.

Are you the same George T. Crerar who was the master of the "Strathalbyn" on the 12th day of January, 1912, when she came into collision with the "Virginian" on Puget Sound between Robinson Point and Pully Point, and are you the same George T. Crerar who has heretofore testified in this case?

THIRD INTERROGATORY.

Have you ever measured the distance between the port light and the starboard light or the distance between the port light screen and the starboard light screen or any part thereof of the "Strathalbyn", or have you been present when any such measurements may have been made, referring particularly to the lights and light screens on the chartroom or lower bridge that were in use at the time of the collision between the "Strathalbyn" and "Virginian"?

FOURTH INTERROGATORY.

If you answer the third interrogatory in the affirmative, state when and where you made such measurements or when and where you were present when such measurements were made; and if anyone was present at any such measurements, state who they were; and if there are any circumstances that fix these matters and measurements in your mind, please state what they are in detail.

FIFTH INTERROGATORY.

If you answer the third interrogatory in the affirmative, state from what points the measurements were taken and to what points, and describe exactly how it was done.

SIXTH INTERROGATORY.

State whether or not you know the result of the measurements.

SEVENTH INTERROGATORY.

If you answer the sixth interrogatory in the affirmative, state what was the distance obtained by the measurements you have described and mentioned, going into detail as to the points between which the measurements so obtained and ascertained by you were taken.

EIGHTH INTERROGATORY.

Do you know what the distance was, on January 12, 1912, between the lights on the bridge above the chart room bridge,—that is, the lights above the lights that were in use at the time of the collision between the “Virginian” and “Strathalbyn”, on January 12, 1912, and if so, state what that distance was, and whether or not the lights on the flying bridge would be inboard or outboard of a perpendicular line raised from the inboard side of the light screen on the chart room deck.

NINTH INTERROGATORY.

What was the width of the board forming the after end of the light screen on the chart room bridge at the time of the collision, if you know?

TENTH INTERROGATORY.

Do you remember whether the broad side of the stanchions or the narrow side of the stanchions that were holding the deck cargo upon the froward deck of the “Virginian” at the time of the collision was placed facing the bulwark rail, and if so, state whether the broad side of the stanchions or the narrow side of the stanchions was facing the rail?

ELEVENTH INTERROGATORY.

Attached to these interrogatories are five (5) photographs marked “Libellant’s Identification S 1”, “S 2”, “S 3”, “S 4” and “S 5” respectively, and ask you if you know what they represent and when they were taken, and, if you know about the photographs, to explain in detail what they were and have them marked by the American Consul or Deputy American Consul before whom this testimony may be taken as Libellant’s exhibits corresponding with the identification numbers on each.

TWELFTH INTERROGATORY.

Referring to each of the identifications mentioned in interrogatory No. 11, mark upon each of the photographs where the light was positioned that was in use at the time of the collision between the "Strathalbyn" and "Virginian" and also mark and describe in your testimony, so that the same can be easily identified, the light screen on the flying bridge, and all other features of the pictures about which you may desire to testify in relation to their bearing upon the issue of the visibility of the "Strathalbyn" lights to the "Virginian".

THIRTEENTH INTERROGATORY.

How long since the collision with the "Virginian" have you been master of the "Strathalbyn"?

FOURTEENTH INTERROGATORY.

What was the distance at the time of the collision from the stem of the "Strathalbyn" to the break of her forecastle head?

FIFTEENTH INTERROGATORY.

On the night of the collision, what was the distance from the iron brackets in the light screens in use on the night of the collision to the forward edge of the chartroom deck?

SIXTEENTH INTERROGATORY.

State whether or not the mast-head light of the "Strathalbyn" flared up and sunk down prior to or after the collision.

SEVENTEENTH INTERROGATORY.

State whether or not the mast-head light gave a steady light, and if so, during what part of the passage from Tacoma to the point of collision and back again.

EIGHTEENTH INTERROGATORY.

Describe minutely how the side light screens that were in use on the "Strathalbyn" on the night of the collision between the "Strathalbyn" and "Virginian" were attached at that time to the "Strathalbyn".

NINETEENTH INTERROGATORY.

Referring to the light screens in which the lights were placed on the 12th of January, 1912, at the time of the collision between the "Strathalbyn" and the "Virginian," describe minutely how the light screens were at that time positioned with particular reference to the

object to which the side light screens were attached, the distance from the forward end of the light screen to the forward edge of the chart room bridge deck just below it, its height above that deck, how the lamps are placed and secured in the screens, and if the lamps are hung in the screens, describe the object on which the lamps are hung, and whether or not there was an iron bracket in the screen, its use and thickness, if you answer there was an iron bracket in the screen, and the distance between the outer side of the inboard side plank of the light screen and the inboard side of the iron bracket, if there was one, and whether or not there was a hole through the inboard side of the light screen and where that hole was with respect to the iron bracket, if any, and the purpose of the hole.

TWENTIETH INTERROGATORY.

Have you ever measured, or at any time been present when others measured the distance between the inboard side of the iron bracket in the port light screen and the inboard side of the iron bracket in the starboard light screen on the chart room or lower bridge, and if so, state when and where, and the distance as shown by such measurements.

TWENTY-FIRST INTERROGATORY.

If you answer interrogatory No. 20 in the affirmative and give the distance, state whether or not there had been any change that would increase or decrease the distance measured between the time of the collision up to the time of such measurements.

TWENTY-SECOND INTERROGATORY.

Do you know what the distance was, at the time of the collision between the "Strathalbyn" and the "Virginian," between the outside edge of the blocks in the forward end of the port and the forward end of the starboard light screens—on the chartroom or lower bridge—that is, the distance measured across the ship?

TWENTY-THIRD INTERROGATORY.

If you answer the twenty-second interrogatory in the affirmative, state what that distance was.

TWENTY-FOURTH INTERROGATORY.

State whether or not you observed the position of the stanchions supporting the forward deck-load of the

cargo after the loading of the cargo was completed or on the morning following the collision, and state how the stanchions were then erected which held the forward deck-load of the cargo as compared with the stanchions which were erected to hold the forward deck-load of the cargo when it was reloaded on the deck after the collision, and state how the position of the stanchions appearing in Libellant's Identification "S 2", "S 3", "S 4" and "S 5" compares with the appearance and position of the stanchions that held the original forward deck cargo.

TWENTY-FIFTH INTERROGATORY.

State whether or not the "Strathalbyn" was listed after the cargo was reloaded upon her after the collision, and state how that list compared with her list when she started on her voyage from Tacoma on the 12th of January, 1912, and prior to her collision with the "Virginian."

FIFTY-THIRD INTERROGATORY.

Attached to these interrogatories and marked "Libellant's Identification "S S" is a copy of a blue print introduced in evidence by the claimant and referred to in the testimony of Mr. Frank Walker. State whether or not the rays of light were, on the night of the collision, deflected by the stanchions as shown on this drawing, the lines marked and being referred to as the line of deflection of the light rays.

NO. 1036.

CROSS-INTERROGATORIES.

Cross-Interrogatories to be propounded to GEORGE T. CRERAR, a witness to be produced, sworn and examined in a certain cause of admiralty and maritime jurisdiction now pending in the District Court of the United States, for the Western District of Washington, Southern Division, wherein STRATHALBYN STEAMSHIP COMPANY, LTD., a corporation, is Libellant, against the Steamship "VIRGINIAN," her tackle, apparel, furniture, boilers and engines, Respondent, and the AMERICAN HAWAIIAN STEAMSHIP COMPANY, a corporation, Claimant and Cross-Libellant, on the part and behalf of the Libellant:

Cross-Interrogatory No. 1:

If you answer Interrogatory No. 3 in the affirmative, and state in answer to Interrogatory No. 4 that such measurements were made at Esquimault, B. C., state whether or not you were present during all the time that the said measurements were being made, and if so, state how the measurements were made, and by what persons the tapes, etc., were held, and what persons, if any, took down the notes of measurements so made at that time.

Cross-Interrogatory No. 2:

If you answer Interrogatory No. 3 in the affirmative, and state in answer to Interrogatory No. 4 that such measurements were made at Esquimault, B. C., state whether or not such measurements were made jointly by C. R. M. Jack, a marine surveyor representing the Steamship "Strathalbyn" and her owners, and Frank Walker, a marine surveyor representing the Steamship "Virginian" and her owners, assisted by the first officer of the steamer "Strathalbyn," and William H. Logan, representative of the London Salvage Association.

Cross-Interrogatory No. 3:

If you answer Interrogatory No. 3 in the affirmative, and state in answer to Interrogatory No. 4 that such measurements were made at Esquimault, B. C., state whether or not the said surveyors Jack and Walker took down notes of the measurements so made, and whether or not any other persons took notes of such measurements, and if so, state who such other persons were, and whether you saw them taking notes.

Cross-Interrogatory No. 4:

If in answer to Interrogatories Nos. 3 and 4, you state that such measurements were made at Esquimault, B. C., state whether or not the said surveyors Jack and Walker compared each and every measurement as taken, putting down their notes of the different measurements.

Cross-Interrogatory No. 5:

If in answer to Interrogatories Nos. 3 and 4, you state that such measurements were made at Esquimault, B. C., state whether or not Mr. W. H. Hayden, proctor representing the Steamship "Strathalbyn," and her owners, and Mr. Lawrence Bogle, proctor representing the

Steamship "Virginian" and her owners, were present at the time such measurements were made.

Cross-Interrogatory No. 6:

If in answer to Interrogatories Nos. 3 and 4, you state that such measurements were made at Esquimault, B. C., state if you know, whether such measurements were made by the said surveyors Jack and Walker in accordance with an agreement between the proctors in this case.

Cross-Interrogatory No. 7:

If you answer the preceding Cross-nterrogatory in the affirmative, state what your understanding of the agreement between the proctors in this case was, as to having the measurements of the "Strathalbyn."

Cross-Interrogatory No. 8:

If you answer Cross-Interrogatory No. 6 in the affirmative, state whether or not you understood that the proctors in this case agreed that they should each appoint a surveyor, and that the two surveyors so appointed should make the measurements of the steamship "Strathalbyn," and that the measurements so made and agreed upon by the said surveyors, should be taken as the correct measurements of the Steamship "Strathalbyn" for the purposes of this case, and that a blue-print should be made from the measurements of the "Strathalbyn" so agreed upon by these surveyors, and the said blue-print should be placed in evidence in this case as the correct blue-print of the Steamship "Strathalbyn," showing the correct measurements of the said vessel.

Cross-Interrogatory No. 9:

If in answer to Interrogatory No. 4 you state that these measurements were made at Esquimault, B. C., state whether or not Frank Walker, a marine surveyor, was present at that time, and whether or not you knew that said Frank Walker was present as a surveyor representing the Steamship "Virginian" and her owners.

Cross-Interrogatory No. 10:

If in answer to Interrogatory No. 4 you state that these measurements were made at Esquimault, B. C., state whether or not ——— Jack, a marine surveyor, was present at that time, and whether or not you knew that said ——— Jack was present as a surveyor rep-

resenting the Steamship "Strathalbyn" and her owners.
Cross-Interrogatory No. 11:

If in answer to Interrogatory No. 4, you state that these measurements were made at Esquimault, state, if you know, whether a blue-print was subsequently made from the measurements so taken at that time, and agreed upon by surveyors Jack and Walker, either by or under the direction of Jack, and state, if you know, whether this blue-print was ever signed and certified as being correct by the said surveyors, and both of them, as well as by Captain William H. Logan.

Cross-Interrogatory No. 12:

If in answer to the preceding Cross-Interrogatory, you state that such a blue-print was made, state whether or not you ever saw or conversed with ——— Jack, Frank Walker, or Captain William H. Logan, subsequent to the time of the making of the blue-print, and if so, whether any of these persons ever stated to you that this blue-print did not show the correct measurements of the Steamship "Strathalbyn."

Cross-Interrogatory No. 13:

State whether or not any person ever stated to you, either orally or in writing, or otherwise, that this blue-print did not show the correct measurements of the Steamship "Strathalbyn," or made any objection to you in connection with said blue-print, and if so, state who such person was, when this statement or objection was made, and if in writing, attach a copy of such statement or objection to your answers hereto, having the same first marked and identified as an exhibit by the American Consul or Deputy American Consul, before whom this testimony is taken.

Cross-Interrogatory No. 14:

State whether or not you have ever seen the blue-print of the Steamship "Strathalbyn" made from the joint notes of the surveyors Jack and Walker, or a copy thereof, and whether a copy of said blue-print is now or has at any time been in your possession, and if so, state who sent the said blue-print to you.

Cross-Interrogatory No. 15:

If in answer to Interrogatory No. 4, you state that such measurements were made at Esquimault, B. C.,

state whether you personally made any notes of the measurements made at that time.

Cross-Interrogatory No. 16:

If in answer to the preceding Cross-Interrogatory you state that you took notes of the measurements made of the Steamship "Strathalbyn" at Esquimault, B. C., at the time when she was measured by surveyors Jack and Walker, attach your original notes to your answers hereto, and have the same properly marked and identified as an exhibit in this cause by the American Consul or Deputy American Consul, before whom this testimony is taken.

Cross-Interrogatory No. 17:

If in answer to Cross-Interrogatory No. 6, you state that you knew of no agreement between proctors in this case as to having these measurements taken, state just what your understanding was of the reason and purpose of having these measurements taken by surveyors representing the different parties in this cause, in the presence of the proctors for the different parties in this cause; also state your understanding of the reason and purpose of having a blue-print made from the notes of the said surveyors, and having the said blue-print signed as being correct by the said surveyors.

Cross-Interrogatory No. 18:

If you answer Interrogatory No. 3 in the affirmative, and in answer to Interrogatory No. 4 state that these measurements were made at some place other than at Esquimault, B. C., state when and where such measurements so testified to by you, were made, and at whose request the said measurements were made.

Cross-Interrogatory No. 19:

If in answer to Interrogatories Nos. 3 and 4 you state that these measurements were made at some other place than at Esquimault, B. C., state who was present at the time the said measurements were made.

Cross-Interrogatory No. 20:

If in answer to Interrogatories 3 and 4 you state that the measurements to which you have just testified were made at some other place than at Esquimault, B. C., state whether or not you were present at Esquimault, B. C., in the month of February or March, 1912, when

the measurements of the Steamship "Strathalbyn" were made by marine surveyors Frank Walker and ——— Jack.

Cross-Interrogatory No. 21:

If you answer the preceding Cross-Interrogatory in the affirmative, state if you know, whether surveyor Jack made such measurements as a representative of the Steamship "Strathalbyn" and her owners, and whether surveyor Walker made such measurements as a representative of the Steamship "Virginian" and her owners.

Cross-Interrogatory No. 22:

If you answer Cross-Interrogatory No. 20 in the affirmative, state if you know, what the different measurements made by surveyor Jack were, and what the different measurements made by surveyor Walker were, and whether measurements made by these two surveyors were identical.

Cross-Interrogatory No. 23:

If you answer Cross-Interrogatory No. 20 in the affirmative, state, if you know, whether a blue-print was subsequently made by or under the direction of surveyor Jack, and also state if you know, whether this blue-print was subsequently compared and signed as correct by surveyors Jack and Walker.

Cross-Interrogatory No. 24:

If you answer the preceding Cross-Interrogatory in the affirmative, state whether or not you have ever seen this blue-print, or a copy thereof, or whether you now have said blue-print or a copy thereof in your possession, and if so, who sent the said blue-print or copy thereof to you.

Cross-Interrogatory No. 25:

If you answer Cross-Interrogatory No. 20 in the affirmative, or have any knowledge or information as to the said blue-print, state whether or not any person has ever made any objection to the said blue-print to you upon the grounds that it did not show the correct measurements of the Steamship "Strathalbyn," or otherwise, and if so, state who that person was, and if the objection or communication was made in writing attach a copy hereto, and have the same properly marked and identified as an exhibit in this cause by the American

Consul or Deputy American Consul before whom this testimony is taken.

Cross-Interrogatory No. 26:

State the distance between the inner edge of the rail on the main deck, measured across the deck at a point directly in front of the superstructure of the Steamship "Strathalbyn."

Cross-Interrogatory No. 27:

State the distance across the main deck of the Steamship "Strathalbyn" between the inner edges of the rail, at a point six feet forward of the superstructure; also at a point 18 feet forward of the superstructure; also at a point 30 feet forward of the superstructure; also at a point 48 feet forward of the superstructure; also at a point 63 feet forward of the superstructure of the Steamship "Strathalbyn."

Cross-Interrogatory No. 28:

State the distance from the inboard side of the light screens, on the starboard and port sides of the "Strathalbyn" to the outer edge of the lower bridge deck; state the distance from the outer edge of the forward end of the light screens on the port and starboard sides of the "Strathalbyn," to the outer edge of the lower bridge deck; that is, to the extreme end of the lower bridge deck, on a line measured across the ship.

Cross-Interrogatory No. 29:

Give the dimensions of the forward ends of the light screens on the starboard and port sides of the "Strathalbyn"; that is, the height and width of the said forward end of the light screens.

Cross-Interrogatory No. 30:

If in answer to Interrogatory No. 9 you attempt to give the width of the board forming the after end of the light screen in the chart room bridge, state when you made this measurement, and whether or not the said measurement was made by you, or any other person or persons to your knowledge, at the time the "Strathalbyn" was measured by surveyors Jack and Walker at Esquimaux, B. C. Also state whether the chart room bridge referred to in said Interrogatories is the same as the lower bridge deck upon which the lights were placed on the night of the collision.

Cross-Interrogatory No. 31:

If in answer to Interrogatory No. 11 you state that you know what the photographs therein referred to represent, and when they were taken, state whether or not you were present when these photographs were taken, and if you know by whom the said photographs were taken, and if so, give the name of the photographer.

Cross-Interrogatory No. 32:

State, if you were present, where the photographer was standing at the time each of the said photographs referred to in Interrogatory No. 11 was taken; and indicate on each of said photographs with the letter "X" a point directly in front of where the camera was placed when these photographs were taken.

Cross-Interrogatory No. 33:

If you were present when these photographs referred to in Interrogatory No. 11 were taken, state and also indicate upon the said photographs, the position of the camera, and the direction in which it was pointing at the time the photographs were taken.

Cross-Interrogatory No. 34:

Referring to the photograph marked "S1," indicate with the letter "Y" upon said photograph where the electric mast head light of the Steamship "Strathalbyn" is positioned.

Cross-Interrogatory No. 35:

State whether or not the light shown in photograph marked "S1" is the same light that was in use on the night of the collision between the "Strathalbyn" and the "Virginian."

Cross-Interrogatory No. 36:

State whether the light shown in photograph marked "S1," is in exactly the same position as it was on the night of the collision.

Cross-Interrogatory No. 37:

If in answer to Interrogatory No. 15, you attempt to give the distance from the iron brackets in the light screens in use on the night of the collision, to the forward edge of the chart room deck, state when this measurement was made and at whose request. Also state whether a similar measurement was made by you or by any person to your knowledge at the time the Steamship

"Strathalbyn" was surveyed by marine surveyors Jack and Walker at Esquimault, B. C., and if so, by whom.

Cross-Interrogatory No. 38:

If you answer Interrogatory No. 16 in the negative, state where you were standing when you made your observation of this mast head light.

Cross-Interrogatory No. 39:

State whether or not at any time on the night of the collision between the "Strathalbyn" and the "Virginian," you were in a position where you could see the direct rays of light from the mast head light of the Steamship "Virginian," and if so, state where you were standing when you saw the said rays.

Cross-Interrogatory No. 40:

State whether or not you made any examination of the mast head light of the Steamship "Strathalbyn" in use on the night of the collision, either before or after the collision, and if so, state when and where, and at what time you made the said examination.

Cross-Interrogatory No. 41:

If you answer Interrogatory No. 17 in the affirmative, state where you were positioned when you observed this mast head light giving a steady light.

Cross-Interrogatory No. 42:

State whether or not the side light screens and the iron brackets of said screens, or the construction of same or any part thereof, were constructed in accordance with the regulations of the British Board of Trade, or otherwise.

Cross-Interrogatory No. 43:

If in answer to Interrogatory No. 20, you state that the measurements therein called for were made at Esquimault, B. C., state whether or not said measurements were made by surveyors Jack and Walker, and if so, what the measurements were as made and agreed upon by said surveyors.

Cross-Interrogatory No. 44:

If you state in answer to Interrogatory No. 20, that you made these measurements yourself, either at Esquimault, B. C., or elsewhere, state in whose presence the measurements were made, and whether or not you took any notes of said measurements.

Cross-Interrogatory No. 45:

If you answer Interrogatory No. 22 in the affirmative, and in answer to Interrogatory No. 23 you attempt to give the measurements therein called for, state whether or not these measurements were made by surveyors Jack and Walker at Esquimault, B. C., and if so, state what the measurements made and agreed to by them were.

Cross-Interrogatory No. 46:

If in answer to Interrogatories Nos. 22 and 23, you state that you made these measurements personally, state who was present, and whether or not you took any notes of these measurements. Also state where the measurements were made and at whose request.

Cross-Interrogatory No. 47:

If in answer to Interrogatory No. 24, you state that the stanchions erected to hold the forward deck cargo of the Steamship "Strathalbyn," prior to the collision, appeared the same or about the same as the stanchions which were erected to hold the forward deck cargo of the "Strathalbyn" as it was reloaded subsequent to the collision, state whether or not you made any measurements to ascertain whether these stanchions were positioned the same both times, or whether you are testifying now merely from your recollection of the position of these stanchions before and after the collision.

Cross-Interrogatory No. 48:

If in answer to the preceding Cross-Interrogatory you state that you made measurements, give the distance across the ship from the top of the stanchions immediately in front of the superstructure, as the ship was loaded prior to the collision, and give the same distance across the tops of the same stanchions as the ship was loaded subsequent to the collision; give the same measurements between the other stanchions holding the deck cargo of the "Strathalbyn", both before and after the collision, as the ship was loaded and ready for sea.

Cross-Interrogatory No. 49:

State whether or not it was a part of your duty, or whether you had anything to do with the loading of the forward deck cargo of the "Strathalbyn," or the plac-

ing of the stanchions, etc., either prior to the collision or subsequent to the collision, and if so, state just what you had to do with the loading of these stanchions at either or both said times.

Cross-Interrogatory No. 50:

Did the first stanchion forward on the port side of the Steamship "Strathalbyn", after she was loaded and on her voyage from Tacoma, Washington, to Australia, prior to the collision, tumble outboard or inboard, and if so, state exactly how much this stanchion tumbled either way, from a vertical line drawn from the main deck. In answering this question, give the exact distance if you know, and do not try to approximate it.

Cross-Interrogatory No. 51:

Did the first stanchion forward on the port side of the Steamship "Strathalbyn", after she was reloaded and on her voyage from Tacoma, Washington, to Australia, after the collision, tumble outward or inboard, and if so, state exactly how much this stanchion tumbled either way, from a vertical line drawn from the main deck. In answering this question, give the exact distance, if you know, and do not approximate it.

Cross-Interrogatory No. 52:

State exactly how much of a list the Steamship "Strathalbyn" had when leaving Tacoma after reloading her forward deck cargo subsequent to the collision, state just exactly how you arrive at the amount of list, if any.

Cross-Interrogatory No. 53:

State exactly how much of a list the Steamship "Strathalbyn" had when leaving Tacoma, after loading her forward deck cargo, prior to the collision; state just exactly how you arrive at the amount of list, if any.

Cross-Interrogatory No. 54:

State the draft of the Steamship "Strathalbyn" fore and aft, after she was reloaded and on her voyage from Tacoma to Australia, subsequent to the collision.

Cross-Interrogatory No. 55:

How many feet of lumber were loaded on the forward deck of the Steamship "Strathalbyn" when she left the port of Tacoma for Australia, subsequent to the collision.

Cross-Interrogatory No. 56:

How many feet of lumber were loaded on the forward deck of the Steamship "Strathalbynn" when she left the port of Tacoma for Australia, prior to the collision.

Cross-Interrogatory No. 57:

If you answer Interrogatory No. 51 in the affirmative and give the name of the surveyor, state whether or not this survey was not made at the time the "Strathalbyn" was loaded for her voyage prior to the collision, instead of when she was reloaded subsequent to the collision. If you answer this Interrogatory in the affirmative, state who surveyed the cargo prior to the collision, and at what time this survey was made.

Cross-Interrogatory No. 58:

If you answer Interrogatory No. 53 in the negative, state whether or not you were in a position ahead of the "Strathalbyn" at any time on the night of the collision, or whether you were in any position on said night ahead of the lights so that you could ascertain and testify as to whether or not the line of lights was deflected by the stanchions.

Cross-Interrogatory No. 59:

If you answer Interrogatory No. 53 in the negative, state whether or not you are testifying from any actual facts within your knowledge, or whether you are merely giving your opinion based upon no actual knowledge of conditions on said night.

Cross-Interrogatory No. 60:

If you answer Interrogatory No. 53 in the negative, state whether or not you are the George T. Crerar who testified before the United States Inspectors of Hulls and Boilers in the City of Seattle, on or about the 19th day of January, 1912, with reference to this accident.

Cross-Interrogatory No. 61:

If you answer the preceding Cross-Interrogatory in the affirmative, state whether or not the following questions were asked you, and whether or not you gave the following answers to said questions on that date:

Q. (By Captain Turner) "Are there any stanchions up there"?

A. (By Captain Crerar) "Yes sir."

Q. (By Captain Turner) "That could have been possibly in the range of that light?"

A. (By Captain Crerar) "I don't think so, I don't think they would obstruct the light at all, sir."

And again:

Q. (By Captain Whitney) "Are you sure that the stanchions were not extending high enough to obscure them?"

A. (By Captain Crerar) "Well, they were extending high enough, but I think they were inside of the line of the light."

Cross-Interrogatory No. 62:

If you state that the above questions were asked you on that date, and the above answers given by you, state whether or not you are in any better position at this time to testify as to whether or not the stanchions obscured the side lights of the "Strathalbyn", than you were when you gave the said testimony before the said Inspectors, a week after the accident.

Cross-Interrogatory No. 63:

State whether or not your recollection of the position of the stanchions on the night of the collision, and the location of the lights on the "Strathalbyn" at the said time, is any clearer at this time than it was at the time you testified before the Inspectors a week after the collision.

Cross-Interrogatory No. 64:

If you answer the preceding Cross-Interrogatory in the affirmative, state whether or not you have received any communication or information since the date of testifying before the Inspectors of Hulls and Boilers, on the 19th day of January, 1912, which would tend to refresh your recollection as to the position of the stanchions and lights on the "Strathalbyn" on the night of the collision, and if so, from whom did you receive such communication or information.

Cross-Interrogatory No. 65:

If in answer to the preceding Cross-Interrogatory you state that you received some such communication or information, state whether or not the same was oral or in writing, and if in writing, attach a copy of the

communication hereto, and have the same marked and identified as an exhibit in this cause by the American Consul or Deputy American Consul, before whom this testimony is taken.

BOGLE, GRAVES, MERRITT & BOGLE,
Proctors for Respondent and Claimant.

No. 1036.

INTERROGATORIES TO BE ADMINISTERED TO JOHN PURDIE, A WITNESS OR WITNESSES TO BE PRODUCED, SWORN AND EXAMINED IN A CERTAIN CAUSE OF ADMIRALTY AND MARITIME JURISDICTION NOW PENDING IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF WASHINGTON, SOUTHERN DIVISION, WHEREIN STRATHALBYN STEAMSHIP COMPANY, LTD., A CORPORATION is LIBELLANT, AGAINST THE STEAMSHIP "VIRGINIAN", HER TACKLE, APPAREL, FURNITURE, BOILER AND ENGINES, RESPONDENT and THE AMERICAN HAWAIIAN STEAMSHIP COMPANY, A CORPORATION, CLAIMANT, ON THE PART AND BEHALF OF THE LIBELLANT.

FIRST INTERROGATORY.

What is your name, age, place of residence and business or profession-

SECOND INTERROGATORY.

Are you the same John Purdie who was the first mate of the "Strathalbyn" on the 12th day of January, 1912, when she came into collision with the "Virginian" on Puget Sound between Robinson Point and Pully Point, and are you the same John Purdie who has heretofore testified in this case?

THIRD INTERROGATORY.

Have you ever measured the distance between the port light and the starboard light or the distance between the port light screen and the starboard screen, or any part thereof, of the "Strathalbyn", or have you been present when any such measurements may have been made, referring particularly to the lights and light screens on the chart room or lower bridge that were in

use at the time of the collision between the "Strathalbyn" and "Virginian"?

FOURTH INTERROGATORY.

If you answer the third interrogatory in the affirmative, state when and where you made such measurements or when and where you were present when such measurements were made; and if anyone was present at any such measurements, state who they were; and if there are any circumstances that fix these matters and measurements in your mind, please state what they are in detail.

FIFTH INTERROGATORY.

If you answer the third interrogatory in the affirmative, state from what points the measurements were taken and to what points, and describe exactly how it was done.

SIXTH INTERROGATORY.

State whether or not you know the result of the measurements.

SEVENTH INTERROGATORY.

If you answer the sixth interrogatory in the affirmative, state what was the distance obtained by the measurements you have described and mentioned, going into detail as to the points between which the measurements so obtained and ascertained by you were taken.

EIGHTH INTERROGATORY.

Do you know what the distance was, on January 12, 1912, between the lights on the bridge above the chart room bridge,—that is, the lights above the lights that were in use at the time of the collision between the "Virginian" and "Strathalbyn", on January 12, 1912, and if so, state what that distance was, and whether or not the lights on the flying bridge would be inboard or outboard of a perpendicular line raised from the inboard side of the light screen on the chart room deck.

NINTH INTERROGATORY.

What was the width of the board forming the after end of the light screen on the chart room bridge at the time of the collision, if you know?

TENTH INTERROGATORY.

Do you remember whether the broad side of the stanchions or the narrow side of the stanchions that

were holding the deck cargo upon the forward deck of the "Virginian" at the time of the collision was placed facing the bulwark rail, and if so, state whether the broad side of the stanchions or the narrow side of the stanchions was facing the rail?

ELEVENTH INTERROGATORY.

Attached to these interrogatories are five (5) photographs marked "Libellant's Identification "S1", "S2", "S 3", "S 4" and "S 5" respectively, and ask you if you know what they represent and when they were taken, and, if you know about the photographs, to explain in detail what they were and have them marked by the American Consul or Deputy American Consul before whom this testimony may be taken as Libellant's exhibits corresponding with the identification numbers on each.

TWELFTH INTERROGATORY.

Referring to each of the identifications mentioned in interrogatory No. 11, mark upon each of the photographs where the light was positioned that was in use at the time of the collision between the "Strathalbyn" and the "Virginian" and also mark and describe in your testimony, so that the same can be easily identified, the light screen on the flying bridge, and all other features of the pictures about which you may desire to testify in relation to their bearing upon the issue of the visibility of the lights of the "Strathalbyn."

THIRTEENTH INTERROGATORY.

How long since the collision with the "Virginian" have you been first mate of the "Strathalbyn"?

FOURTEENTH INTERROGATORY.

What was the distance at the time of the collision from the stem of the "Strathalbyn" to the break of her forecastle head?

FIFTEENTH INTERROGATORY.

On the night of the collision, what was the distance from the iron brackets in the light screens in use on the night of the collision to the forward edge of the chart room deck?

SIXTEENTH INTERROGATORY.

State whether or not the mast-head light of the

"Strathalbyn" flared up and sunk down prior to or after the collision.

SEVENTEENTH INTERROGATORY.

State whether or not the mast-head light gave a steady light, and if so, during what part of the passage from Tacoma to the point of collision and back again.

EIGHTEENTH INTERROGATORY.

Describe minutely how the side light screens that were in use on the "Strathalbyn" on the night of the collision between the "Strathalbyn" and "Virginian" were attached at that time to the "Strathalbyn".

NINETEENTH INTERROGATORY.

Referring to the light screens in which the lights were placed on the 12th of January, 1912, at the time of the collision between the "Strathalbyn" and the "Virginian", describe minutely how the light screens were at that time positioned with particular reference to the object to which the side light screens were attached, the distance from the forward end of the light screen to the forward edge of the chart room bridge deck just below it, its height above that deck, how the lamps were placed and secured in the screens, and if the lamps were hung in the screens, describe the object on which the lamps were hung, and whether or not there was an iron bracket in the screen, its use and thickness, if you answer there was an iron bracket in the screen, and the distance between the outer side of the inboard side plank of the light screen and the inboard side of the iron bracket, if there was one, and whether or not there was a hole through the inboard side of the light screen and where that hole was with respect to the iron bracket, if any, and the purpose of the hole.

TWENTIETH INTERROGATORY.

Have you ever measured, or at any time been present when others measured the distance between the inboard side of the iron bracket in the port light screen and the inboard side of the iron bracket in the starboard light screen, on the chart room or lower bridge, and if so, state when and where, and the distance as shown by such measurements.

TWENTY-FIRST INTERROGATORY.

If you answer interrogatory No. 20 in the affirma-

tive and give the distance, state whether or not there had been any change that would increase or decrease the distance measured between the time of the collision up to the time of such measurements.

TWENTY-SECOND INTERROGATORY.

Do you know what the distance was, at the time of the collision between the "Strathalbyn" and the "Virginian", between the outside edge of the blocks in the forward end of the port and the forward end of the starboard light screens,—on the chart room or lower bridge,—that is, the distance measured across the ship?

TWENTY-THIRD INTERROGATORY.

If you answer the twenty-second interrogatory in the affirmative, state what that distance was.

TWENTY-FOURTH INTERROGATORY.

State who supervised the reloading of the cargo.

TWENTY-FIFTH INTERROGATORY.

State whether or not you observed the position of the stanchions supporting the forward deck-load of the cargo after the loading of the cargo was completed or on the morning following the collision, and state how the stanchions were then erected which held the forward deck-load of the cargo as compared with the stanchions which were erected to hold the forward deck-load of the cargo when it was reloaded on the deck after the collision, and state how the position of the stanchions appearing in Libellant's Identification "S 2", "S 3", "S 4" and "S 5" compares with the appearance and position of the stanchions that held the original forward deck cargo.

TWENTY-SIXTH INTERROGATORY.

State whether or not the "Strathalbyn" was listed after the cargo was reloaded upon her after the collision, and state how that list compared with her list when she started on her voyage from Tacoma on the 12th of January, 1912, and prior to her collision with the "Virginian".

TWENTY-SEVENTH INTERROGATORY.

State at what time and on what day the "Strathalbyn" was practically in the same position on her outward voyage after her repairs had been completed and

the cargo reloaded after the collision with the "Virginian", that she was in at the time of the collision.

THIRTY-FIFTH INTERROGATORY.

Attached to the interrogatories propounded to George T. Crerar and marked "S S" is a copy of a blue-print introduced in evidence by the claimant and referred to in the testimony of Mr. Frank Walker. State whether or not the rays of light were, on the night of the collision, deflected by the stanchions as shown on this drawing, the lines marked and being referred to as the line of deflection of the light rays.

HUFFER, HAYDEN & HAMILTON,
Proctors for Libellant.

CROSS-INTERROGATORIES.

Cross-Interrogatories to be propounded to JOHN PURDIE, a witness to be produced, sworn and examined in a certain cause of admiralty and maritime jurisdiction now pending in the District Court of the United States, for the Western District of Washington, Southern Division, wherein STRATHALBYN STEAMSHIP COMPANY, LTD., a corporation, is Libellant, against the Steamship "VIRGINIAN," her tackle, apparel, furniture, boilers and engines, Respondent, and the AMERICAN HAWAIIAN STEAMSHIP COMPANY, a corporation, Claimant and Cross-Libellant, on the part and behalf of the Libellant:

Cross-Interrogatory No. 1:

If you answer Interrogatory No. 3 in the affirmative, and state in answer to Interrogatory No. 4 that such measurements were made at Esquimault, B. C., state whether or not you were present during all the time that the said measurements were being made, and if so, state how the measurements were made, and by what persons the tapes, etc., were held, and what persons, if any, took down the notes of measurements so made at that time.

Cross-Interrogatory No. 2:

If you answer Interrogatory No. 3 in the affirmative, and state in answer to Interrogatory No. 4 that such measurements were made at Esquimault, B. C., state whether or not such measurements were made

jointly by C. P. M. Jack, a marine surveyor representing the Steamship "Strathalbyn" and her owners, and Frank Walker, a marine surveyor representing the Steamship "Virginian" and her owners, assisted by the first officer of the steamer "Strathalbyn," and William H. Logan, representative of the London Salvage Association.

Cross-Interrogatory No. 3:

If you answer Interrogatory No. 3 in the affirmative, and state in answer to Interrogatory No. 4 that such measurements were made at Esquimault, B. C., state whether or not the said surveyors Jack and Walker took down notes of the measurements so made, and whether or not any other persons took notes of such measurements, and if so, state who such other persons were, and whether you saw them taking notes.

Cross-Interrogatory No. 4:

If in answer to Interrogatories Nos. 3 and 4, you state that such measurements were made at Esquimault, B. C., state whether or not the said surveyors Jack and Walker compared each and every measurement as taken, putting down their notes of the different measurements.

Cross-Interrogatory No. 5:

If in answer to Interrogatories Nos. 3 and 4, you state that such measurements were made at Esquimault, B. C., state whether or not Mr. W. H. Hayden, proctor representing the Steamship "Strathalbyn," and her owners, and Mr. Lawrence Bogle, proctor representing the Steamship "Virginian" and her owners, were present at the time such measurements were made.

Cross-Interrogatory No. 6:

If in answer to Interrogatories Nos. 3 and 4, you state that such measurements were made at Esquimault, B. C., state if you know, whether such measurements were made by the said surveyors Jack and Walker in accordance with an agreement between the proctors in this case.

Cross-Interrogatory No. 7:

If you answer the preceding Cross-Interrogatory in the affirmative, state what your understanding of the agreement between the proctors in this case was, as to having the measurements of the "Strathalbyn" made.

Cross-Interrogatory No. 8:

If you answer Cross-Interrogatory No. 6 in the affirmative, state whether or not you understood that the proctors in this case agreed that they should each appoint a surveyor, and that the two surveyors so appointed should make the measurements of the steamship "Strathalbyn", and that the measurements so made and agreed upon by the said surveyors, should be taken as the correct measurements of the Steamship "Strathalbyn" for the purposes of this case, and that a blue-print should be made from the measurements of the "Strathalbyn" so agreed upon by these surveyors, and the said blue-print should be placed in evidence in this case as the correct blue-print of the Steamship "Strathalbyn", showing the correct measurements of the said vessel.

Cross-Interrogatory No. 9:

If in answer to Interrogatory No. 4, you state that these measurements were made at Esquimaux, B. C., state whether or not Frank Walker, a marine surveyor, was present at that time, and whether or not you knew that said Frank Walker was present as a surveyor representing the Steamship "Virginian" and her owners.

Cross-Interrogatory No. 10:

If in answer to Interrogatory No. 4 you state that these measurements were made at Esquimaux, B. C., state whether or not C. P. M. Jack, a marine surveyor, was present at that time, and whether or not you knew that said C. P. M. Jack was present as a surveyor representing the Steamship "Strathalbyn" and her owners.

Cross-Interrogatory No. 11:

If in answer to Interrogatory No. 4, you state that these measurements were made at Esquimaux, B. C., state, if you know, whether a blue-print was subsequently made from the measurements so taken at that time, and agreed upon by surveyors Jack and Walker, either by or under the direction of Jack, and state, if you know, whether this blue-print was ever signed and certified as being correct by the said surveyors, and both of them, as well as by Captain William H. Logan.

Cross-Interrogatory No. 12:

If in your answer to the preceding Cross-Interrogatory, you state that such a blue-print was made, state

whether or not you ever saw or conversed with C. P. M. Jack, Frank Walker, or Captain William H. Logan, subsequent to the time of the making of the blue-print, and if so, whether any of these persons ever stated to you that this blue-print did not show the correct measurements of the Steamship "Strathalbyn".

Cross-Interrogatory No. 13:

State whether or not any person ever stated to you, either orally or in writing, or otherwise, that this blue-print did not show the correct measurements of the Steamship "Strathalbyn", or made any objection to you in connection with said blue-print, and if so, state who such person was, when this statement or objection was made, and if in writing, attach a copy of such statement or objection to your answers hereto, having the same first marked and identified as an exhibit by the American Consul or Deputy American Consul, before whom this testimony is taken.

Cross-Interrogatory No. 14:

State whether or not you have ever seen the blue-print of the Steamship "Strathalbyn" made from the joint notes of the surveyors Jack and Walker, or a copy thereof, and whether a copy of said blue-print is now or has at any time been in your possession, and if so, state who sent the said blue-print to you.

Cross-Interrogatory No. 15:

If in answer to Interrogatory No. 4 you state that such measurements were made at Esquimault, B. C., state whether you personally made any notes of the measurements made at that time.

Cross-Interrogatory No. 16:

If in answer to the preceding Cross-Interrogatory you state that you took notes of the measurements made of the Steamship "Strathalbyn" at Esquimault, B. C., at the time when she was measured by surveyors Jack and Walker, attach your original notes to your answers hereto, and have the same properly marked and identified as an exhibit in this same cause by the American Consul or Deputy American Consul, before whom this testimony is taken.

Cross-Interrogatory No. 17:

If in answer to Cross-Interrogatory No. 6, you

state that you knew of no agreement between proctors in this case as to having these measurements taken, state just what your understanding was of the reason and purpose of having these measurements taken by surveyors representing the different parties in this cause, in the presence of the proctors for the different parties in this cause; also state your understanding of the reason and purpose of having a blue-print made from the notes of the said surveyors, and having the said blue-print signed as being correct by the said surveyors.

Cross-Interrogatory No. 18:

If you answer Interrogatory No. 3 in the affirmative, and in answer to Interrogatory No. 4 state that these measurements were made at some place other than at Esquimaux, B. C., state when and where such measurements so testified to by you, were made, and at whose request the said measurements were made.

Cross-Interrogatory No. 19:

If in answer to Interrogatories Nos. 3 and 4 you state that these measurements were made at some other place than at Esquimaux, B. C., state who was present at the time the said measurements were made.

Cross-Interrogatory No. 20:

If in answer to Interrogatories 3 and 4 you state that the measurements to which you have just testified were made at some other place than at Esquimaux, B. C., state whether or not you were present at Esquimaux, B. C., in the month of February or March, 1912, when the measurements of the Steamship "Strathalbyn" were made by marine surveyors Frank Walker and C. P. M. Jack.

Cross-Interrogatory No. 21:

If you answer the preceding Cross-Interrogatory in the affirmative, state if you know, whether surveyor Jack made such measurements as a representative of the Steamship "Strathalbyn" and her owners, and whether surveyor Walker made such measurements as a representative of the Steamship "Virginian" and her owners.

Cross-Interrogatory No. 22:

If you answer Cross-Interrogatory No. 20 in the affirmative, state if you know, what the different measurements made by surveyor Jack were, and what the

different measurements made by surveyor Walker were, and whether the measurements made by these two surveyors were identical.

Cross-Interrogatory No. 23:

If you answer Cross-Interrogatory No. 20 in the affirmative, state if you know, whether a blue-print was subsequently made by or under the direction of surveyor Jack, and also state if you know, whether this blue-print was subsequently compared and signed as correct by surveyors Jack and Walker.

Cross-Interrogatory No. 24:

If you answer the preceding Cross-Interrogatory in the affirmative, state whether or not you have ever seen this blue-print, or a copy thereof, or whether you now have said blue-print or a copy thereof in your possession, and if so, who sent the blue-print or copy thereof to you.

Cross-Interrogatory No. 25:

If you answer Cross-Interrogatory 20 in the affirmative, or have any knowledge or information as to the said blue-print, state whether or not any person has ever made any objection to the said blue-print to you upon the grounds that it did not show the correct measurements of the Steamship "Strathalbyn", or otherwise, and if so, state who that person was, and if the objection or communication was made in writing attach a copy hereto, and have the same properly marked and identified as an exhibit in this cause by the American Consul or Deputy American Consul before whom this testimony is taken.

Cross-Interrogatory No. 26:

State the distance between the inner edge of the rail on the main deck, measured across the deck at a point directly in front of the superstructure of the Steamship "Strathalbyn".

Cross-Interrogatory No. 27:

State the distance across the main deck of the Steamship "Strathalbyn" between the inner edges of the rail, at a point six feet forward of the superstructure; also at a point 18 feet forward of the superstructure; also at a point 30 feet forward of the superstructure; also at a point 48 feet forward of the superstructure;

also at a point 63 feet forward of the superstructure of the Steamship "Strathalbyn".

Cross-Interrogatory No. 28:

State the distance from the inboard side of the light screens, on the starboard and port sides of the "Strathalbyn" to the outer edge of the lower bridge deck; state the distance from the outer edge of the forward end of the light screens on the port and starboard sides of the "Strathalbyn", to the outer edge of the lower bridge deck; that is, to the extreme end of the lower bridge deck, on a line measured across the ship.

Cross-Interrogatory No. 29:

Give the dimensions of the forward ends of the light screens on the starboard and port sides of the "Strathalbyn", that is, the height and width of the said forward end of the light screens.

Cross-Interrogatory No. 30:

If in answer to Interrogatory No. 9 you attempt to give the width of the board forming the after end of the light screen in the chart room bridge, state when you made this measurement, and whether or not the said measurement was made by you, or any other person or persons to your knowledge, at the time the "Strathalbyn" was measured by surveyors Jack and Walker at Esquimault, B. C. Also state whether the chart room bridge referred to in said Interrogatories is the same as the lower bridge deck upon which the lights were placed on the night of the collision.

Cross-Interrogatory No. 31:

If in answer to Interrogatory No. 11 you state that you know what the photographs therein referred to represent, and when they were taken, state whether or not you were present when these photographs were taken, and if you know by whom the said photographs were taken, and if so, give the name of the photographer.

Cross-Interrogatory No. 32:

State, if you were present, where the photographer was standing at the time each of the said photographs referred to in Interrogatory No. 11 was taken, and indicate on each of said photographs with the letter "X" a point directly in front of where the camera was placed when these photographs were taken.

Cross-Interrogatory No. 33:

If you were present when these photographs referred to in Interrogatory No. 11 were taken, state and also indicate upon the said photographs, the position of the camera, and the direction in which it was pointing at the time the photographs were taken.

Cross-Interrogatory No. 34:

Referring to the photograph marked "S1", indicate with the letter "Y" upon said photograph where the electric mast head light of the Steamship "Strathalbyn" is positioned.

Cross-Interrogatory No. 35:

State whether or not the light shown in photograph marked "S1", is the same light that was in use on the night of the collision between the "Strathalbyn" and the "Virginian".

Cross-Interrogatory No. 36:

State whether the light shown in photograph marked "S1", is in exactly the same position as it was on the night of the collision.

Cross-Interrogatory No. 37:

If in answer to Interrogatory No. 15, you attempt to give the distance from the iron brackets in the light screens in use on the night of the collision, to the forward edge of the chart room deck, state when this measurement was made and at whose request. Also state whether a similar measurement was made by you or by any person to your knowledge at the time the Steamship "Strathalbyn" was surveyed by marine surveyors Jack and Walker at Esquimault, B. C., and if so, by whom.

Cross-Interrogatory No. 38:

If you answer Interrogatory No. 16 in the negative, state where you were standing when you made your observation of this mast head light.

Cross-Interrogatory No. 39:

State whether or not at any time on the night of the collision between the "Strathalbyn" and the "Virginian", you were in a position where you could see the direct rays of light from the mast head light of the Steamship "Virginian", and if so, state where you were standing when you saw the said rays.

Cross-Interrogatory No. 40:

State whether or not you made any examination of the mast head light of the Steamship "Strathalbyn" in use on the night of the collision, either before or after the collision, and if so, state when and where, and at what time you made the said examination.

Cross-Interrogatory No. 41:

If your answer Interrogatory No. 17 in the affirmative, state where you were positioned when you observed this mast head light giving a steady light.

Cross-Interrogatory No. 42:

State whether or not the side light screens and the iron brackets of said screens, or the construction of same or any part thereof, were constructed in accordance with the regulations of the British Board of Trade, or otherwise.

Cross-Interrogatory No. 43:

If in answer to Interrogatory No. 20, you state that the measurements therein called for were made at Esquimalt, B. C., state whether or not said measurements were made by surveyors Jack and Walker, and if so, what the measurements were as made and agreed upon by said surveyors.

Cross-Interrogatory No. 44:

If you state in answer to Interrogatory No. 20, that you made these measurements yourself, either at Esquimalt, B. C., or elsewhere, state in whose presence the measurements were made, and whether or not you took any notes of said measurements.

Cross-Interrogatory No. 45:

If you answer Interrogatory No. 22 in the affirmative, and in answer to Interrogatory No. 23 you attempt to give the measurements therein called for, state whether or not these measurements were made by surveyors Jack and Walker at Esquimalt, B. C., and if so, state what the measurements made and agreed to by them were.

Cross-Interrogatory No. 46:

If in answer to Interrogatories Nos. 22 and 23, you state that you made these measurements personally, state who was present, and whether or not you took any notes

of these measurements. Also state where the measurements were made and at whose request.

Cross-Interrogatory No. 47:

If in answer to Interrogatory No. 25, you state that the stanchions erected to hold the forward deck cargo of the Steamship "Strathalbyn", prior to the collision, appeared the same or about the same as the stanchions which were erected to hold the forward deck cargo of the "Strathalbyn" as it was reloaded subsequent to the collision, state whether or not you made any measurements to ascertain whether these stanchions were positioned the same both times, or whether you are testifying now merely from your recollection of the position of these stanchions before and after the collision.

Cross-Interrogatory No. 48:

If in answer to the preceding Cross-Interrogatory you state that you made measurements, give the distance across the ship from the top of the stanchions immediately in front of the superstructure, as the ship was loaded prior to the collision, and give the same distance across the tops of the same stanchions as the ship was loaded subsequent to the collision; give the same measurements between the other stanchions holding the deck cargo of the "Strathalbyn", both before and after the collision, as the ship was loaded and ready for sea.

Cross-Interrogatory No. 49:

Did the first stanchion forward on the port side of the Steamship "Strathalbyn", after she was loaded and on her voyage from Tacoma, Washington, to Australia, prior to the collision, tumble outboard or inboard, and if so, state exactly how much this stanchion tumbled either way, from a vertical line drawn from the main deck. In answering this question, give the exact distance if you know, and do not try to approximate it.

Cross-Interrogatory No. 50:

Did the first stanchion forward on the port side of the Steamship "Strathalbyn", after she was reloaded and on her voyage from Tacoma, Washington, to Australia, after the collision, tumble outboard or inboard, and if so, state exactly how much this stanchion tumbled either way, from a vertical line drawn from the main

deck. In answering this question, give the exact distance, if you know, and do not approximate it.

Cross-Interrogatory No. 51:

State exactly how much of a list the Steamship "Strathalbyn" had when leaving Tacoma after reloading her forward deck cargo subsequent to the collision, state just exactly how you arrive at the amount of list, if any.

Cross-Interrogatory No. 52:

State exactly how much of a list the Steamship "Strathalbyn" had when leaving Tacoma, after loading her forward deck cargo, prior to the collision; state just exactly how you arrive at the amount of list, if any.

Cross-Interrogatory No. 53:

State the draft of the Steamship "Strathalbyn" fore and aft, after she was reloaded and on her voyage from Tacoma to Australia, subsequent to the collision.

Cross-Interrogatory No. 54:

How many feet of lumber were loaded on the forward deck of the Steamship "Strathalbyn" when she left the port of Tacoma for Australia, subsequent to the collision.

Cross-Interrogatory No. 55:

How many feet of lumber were loaded on the forward deck of the Steamship "Strathalbyn" when she left the port of Tacoma for Australia, prior to the collision.

Cross-Interrogatory No. 56:

If you answer Interrogatory No. 35 in the negative, state whether or not you were in a position ahead of the "Strathalbyn" at any time on the night of the collision, or whether you were in any position on said night ahead of the lights so that you could ascertain and testify as to whether or not the line of lights was deflected by the stanchions.

Cross-Interrogatory No. 57:

If you answer Interrogatory No. 53 in the negative, state whether or not you are testifying from any actual facts within your knowledge, or whether you are merely giving your opinion based upon no actual knowledge of conditions on said night.

Cross-Interrogatory No. 58:

If you answer Interrogatory No. 53 in the negative,

state whether or not you are the John Purdie who testified before the United States Inspectors of Hulls and Boilers in the City of Seattle, on or about the 23rd day of January, 1912, with reference to this accident.

Cross-Interrogatory No. 59:

If you answer the preceding Cross-Interrogatory in the affirmative, state whether or not the following question was asked you, and whether or not you gave the following answer to said question on that date:

Q. (By Captain Turner) "And you saw the lights yourself from the forecandle head?"

A. (By John Purdie) "Yes".

BOGLE, GRAVES, MERRITT & BOGLE,,
Proctors for Respondent and Claimant.

NO. 1036.

BE IT KNOWN, that acting under and by virtue of the annexed commission issued in the above entitled and numbered suit by the above Court, and authority in me vested, I, John Niven McCunn, Consul of the United States, at Glasgow, Scotland, did cause to personally come and appear before me on this sixth day of March, nineteen hundred and thirteen, at the hour of ten o'clock, forenoon, at the United States Consulate at Glasgow, Scotland, George T. Crerar, John Purdie, and John B. Bodie, witnesses named in the annexed commission, and after having first duly sworn them according to law to tell the whole truth and to truthfully answer the annexed interrogatories and cross interrogatories, I did then propound to them the said interrogatories and cross interrogatories, to which they made answer as follows, to-wit:

GEORGE T. CRERAR, being duly sworn, doth depose and say as follows:

FIRST: To the first interrogatory he saith:

George Thomas Crerar; age, 42; place of residence, 63 Devliegar Street, Rotterdam; shipmaster.

SECOND: To the second interrogatory he saith:

I am.

THIRD: To the third interrogatory he saith:

I have.

FOURTH: To the fourth interrogatory he saith:

I made such measurements at Esquimalt some days before the 19th day of February, 1912—I cannot remember the exact date—with the assistance of the chief officer. I measured the distance between the brackets of the light screens. I was present on 19th February when measurements were taken by the surveyors, Messrs. Jack, Walker and Logan. Mr. Hayden, Mr. Bogle and the chief officer were also present. The circumstance that fixes the matter in my mind is the fact that when the surveyors took the same measurement as I had previously taken with the chief officer the same result was obtained. Subsequently, in May, 1912, at Sydney, New South Wales, on receipt of a cable from Mr. Hayden of Tacoma, I made the same measurement, with the assistance of the chief officer, as I had made previously, with the same result. I now put in a copy of the telegrams I exchanged with Mr. Hayden, and also copy of a letter I wrote to Mr. Hayden in reference to those measurements. (Said documents now marked exhibits U. and V.)

FIFTH: To the fifth interrogatory he saith:

I refer to my previous answer. Other measurements were made, but I do not remember them.

SIXTH: To the sixth interrogatory he saith:

I only know the result of that one measurement.

SEVENTH: To the seventh interrogatory he saith:

The measurements were taken with a tape measure between the inside part of the upright bracket on the port light screen and the inside part of the upright bracket on the starboard light screen. The distance so obtained was 46 feet 10 inches.

EIGHTH: To the eighth interrogatory he saith:

No, I do not know the distance. They would be in-board of a perpendicular line raised from the inside edge of the light screen on the lower bridge.

NINTH: To the ninth interrogatory he saith:

I do not know.

TENTH: To the tenth interrogatory he saith:

The broad side of the stanchions was facing the rail.

ELEVENTH: To the eleventh interrogatory he saith:

I was not present when those Photographs were taken, but from my knowledge of the "Strathalbyn" I

am able to identify some of those photographs. S.1 is a photograph of the foremast of the "Strathalbyn" showing the electric light in position, and the cage for the oil lamp underneath the electric light. It also shows the fore stay and the eye-bolts for the derrick lifts, the use of which is illustrated in the photograph S.4. S.2 represents the port side of the "Strathalbyn", showing the stanchions and some of the lashings holding the deck load. There is nothing on S.3 to enable me to identify it as a photograph of any part of the "Strathalbyn". S.4 is a photograph taken from ahead of the "Strathalbyn" on the port bow while the cargo was being reloaded. S.5 is a photograph of the "Strathalbyn" after the loading was finished.

TWELFTH: To the twelfth interrogatory he saith:

I have marked the position of the masthead light with a cross on S.1. I have marked with a cross on S.2 a point opposite where the port side light was. I have marked the light screen on the upper bridge with an arrow pointing towards it. I have marked on S.5 a cross opposite the light that was in use on the night of the collision. I have also marked on S.5 an arrow pointing towards the screen on the upper bridge. I wish to call attention to photograph S.1. That photograph has evidently been taken with the camera pointing upwards, and the fore stay appears in the photograph to go up in front of the light, and in fact it comes down. I also want to draw attention to the eye-bolts on the ends of the crosstrees. On a dark night the glare which surrounds the light reflects on this fore stay and those eye-bolts, so that a person on the bridge can see at any time whether the masthead light is burning or not. S.2 and S.5 show that the side screens on the upper bridge are slightly inboard of those on the lower bridge.

THIRTEENTH: To this thirteenth interrogatory he saith:

About nine months.

FOURTEENTH: To the fourteenth interrogatory he saith:

I do not know.

FIFTEENTH: To the fifteenth interrogatory he saith:

I never measured that, but I should judge it to be a little over four feet.

SIXTEENTH: To the sixteenth interrogatory he saith:

Not at any time I saw it.

SEVENTEENTH: To the seventeenth interrogatory he saith:

Yes, all the time from Tacoma to the point of collision and back again, when I was on deck.

EIGHTEENTH: To the eighteenth interrogatory he saith:

The side screens were bolted or screwed to the bulwark round the lower bridge.

NINETEENTH: To the nineteenth interrogatory he saith:

They were bolted or screwed outside the wooden bulwark round the lower bridge. I never measured the distance from the forward end of the light screen to the forward end of the chart room bridge deck just below it, but should judge it to be about eight inches. I did not measure the height, but should think about two inches. The lamps were hung on an iron bracket and secured with a screw bolt. The bracket is an iron bracket screwed on to the inboard plank of the light screen. The bracket is about half an inch thick. The distance between the outer side of the inboard plank of the light screen and the inside of the iron bracket would be about an inch and a half. There was a hole through the wooden bulwark and through the inboard plank of the light screen, immediately behind the bracket, for the purpose of allowing a person to put his hand through and screw up the bolt when the lamp was in position.

TWENTIETH. To the twentieth interrogatory he saith:

Yes, I have. I have already answered that question in answer to interrogatory No. 4. The distance was 46 feet 10 inches.

TWENTY-FIRST: To the twenty-first interrogatory he saith:

There was no change between the time of the collision and the time when the measurements were taken, nor at any time when I was on the vessel. It would not be

possible to make any change without making an alteration of the bulwark to which the screen was attached.

TWENTY-SECOND: To the twenty-second interrogatory he saith:

No, I do not.

TWENTY-THIRD: To the twenty-third interrogatory he saith:

I have answered the twenty-second interrogatory in the negative.

TWENTY-FOURTH: To the twenty-fourth interrogatory he saith:

Yes. They appeared to me to be in the same position, to my observation. The position of the stanchions in the photographs S.2, S.4 and S.5 appear to me to be the same as those that held the original deck cargo.

TWENTY-FIFTH: To the twenty-fifth interrogatory he saith:

She had a similar list on both occasions.

FIFTY-THIRD: To the fifty-third interrogatory he saith: No.

CROSS INTERROGATORIES.

FIRST: To the first cross interrogatory he saith:

I was not present during all the time. The measurements were made with a tape measure. The end of the tape was held by the chief officer, and the other end was held at different times by Mr. Jack, Mr. Walker, and I believe also by Mr. Logan. Mr. Jack, Mr. Walker, and I think also Mr. Logan took notes. I also saw Mr. Hayden taking some notes.

SECOND: To the second cross interrogatory he saith: They were.

THIRD: To the third cross interrogatory he saith:

Yes, Mr. Jack and Mr. Walker took notes, and also Captain Logan, and Mr. Hayden; I saw them taking notes.

FOURTH: To the fourth cross interrogatory he saith:

I saw and heard them comparing some of the notes, but I do not know whether they compared each and every measurement, nor whether they noted each and every measurement.

FIFTH: To the fifth cross interrogatory he saith:

They were.

SIXTH: To the sixth cross interrogatory he saith:

I understood that.

SEVENTH: To the seventh cross interrogatory he saith:

I understood that the purpose was to have the measurements made and agreed to so that each side would be satisfied of their correctness.

EIGHTH: To the eighth cross interrogatory he saith:

Yes, I understood the proctors agreed that they would each appoint a surveyor. I understood that the two surveyors appointed by the proctors would make measurements of the steamship "Strathalbyn". I know nothing further about the matter than what I have stated.

NINTH: To the ninth cross interrogatory he saith:

Yes; I knew that.

TENTH: To the tenth cross interrogatory he saith:

Yes; I knew that.

ELEVENTH: To the eleventh cross interrogatory he saith:

I know nothing of the blue print.

TWELFTH: To the twelfth cross interrogatory he saith:

I know nothing whatever of the blue print, and had no conversation with anybody with regard to it.

THIRTEENTH: To the thirteenth cross interrogatory he saith:

FOURTEENTH: To the fourteenth cross-interrogatory he saith:

No, I have never seen the blue print, and have not and never had a copy of it in my possession.

FIFTEENTH: To the fifteenth cross interrogatory he saith:

No.

SIXTEENTH: To the sixteenth cross interrogatory he saith:

My previous answer covers that.

SEVENTEENTH: To the seventeenth cross interrogatory he saith:

I refer to my answer to cross interrogatory No. 6.

EIGHTEENTH: To the eighteenth cross interrogatory he saith:

They were made at Sydney, New South Wales, on receipt of a cable from Mr. Hayden of Tacoma.

NINETEENTH: To the nineteenth cross interrogatory he saith:

Mr. Purdie, the chief officer.

TWENTIETH: To the twentieth cross interrogatory he saith.

Yes, I was present.

TWENTY-FIRST: To the twenty-first cross interrogatory he saith:

I have already answered that I did know that.

TWENTY-SECOND: To the twenty-second cross interrogatory he saith:

I cannot remember the measurements they made, and cannot tell whether the measurements they made were identical or not.

TWENTY-THIRD: To the twenty-third cross interrogatory he saith:

I have no knowledge of the blue print.

TWENTY-FOURTH: To the twenty-fourth cross interrogatory he saith:

I have answered the previous question in the negative.

TWENTY-FIFTH: To the twenty-fifth cross interrogatory he saith:

I have never spoken with, or had any communication from, any one regarding the blue print.

TWENTY-SIXTH: To the twenty-sixth cross interrogatory he saith:

I was present when that measurement was made, but I do not remember it.

TWENTY-SEVENTH: To the twenty-seventh cross interrogatory he saith:

I was present when some of those measurements were made, but I made no notes, and do not remember them.

TWENTY-EIGHTH: To the twenty-eighth cross interrogatory he saith:

I do not know.

TWENTY-NINTH: To the twenty-ninth cross interrogatory he saith:

I do not know.

THIRTIETH: To the thirtieth cross interrogatory he saith:

I do not know and I did not see anyone making this measurement. The chart room bridge is the same as the lower bridge deck upon which the lights were placed on the night of the collision.

THIRTY-FIRST: To the thirty-first cross interrogatory he saith:

I was not present, and I do not know who the photographer was.

THIRTY-SECOND: To the thirty-second cross interrogatory he saith:

I was not present.

THIRTY-THIRD: To the thirty-third cross interrogatory he saith:

I was not present.

THIRTY-FOURTH: To the thirty-fourth cross interrogatory he saith:

I have marked the photograph S.1 with a "Y" beside the electric masthead light.

THIRTY-FIFTH: To the thirty-fifth cross interrogatory he saith:

No.

THIRTY-SIXTH: To the thirty-sixth cross interrogatory he saith:

Yes.

THIRTY-SEVENTH: To the thirty-seventh cross interrogatory he saith:

I did not measure, and to my knowledge no measurement was taken.

THIRTY-EIGHTH: To the thirty-eighth cross interrogatory he saith:

On the upper and lower bridge decks, and also on the forecastlehead deck.

THIRTY-NINTH: To the thirty-ninth cross interrogatory he saith:

Yes; from the upper and lower bridge decks.

FORTIETH: To the fortieth cross interrogatory he saith:

No, I made no examination, having no occasion to do so.

FORTY-FIRST: To the forty-first cross interrogatory he saith:

I was on the upper and lower bridge decks, and also on the forecathhead deck.

FORTY-SECOND: To the forty-second cross interrogatory he saith:

Yes. I want to hand in as evidence the Board of Trade certificate for the lights on board the "Strathalbyn". (Said certificate now marked exhibit W).

FORTY-THIRD: To the forty-third cross interrogatory he saith:

I only remember the result of one measurement made at that time. That measurement was between the brackets on the side screens, measured across the ship, and the distance was 46 feet 10 inches.

FORTY-FOURTH: To the forty-fourth cross interrogatory he saith:

They were made in the presence of the chief officer. I made no notes of them.

FORTY-FIFTH: To the forty-fifth cross interrogatory he saith:

I did not see them make that measurement.

FORTY-SIXTH: To the forty-sixth cross interrogatory he saith:

I did not make those measurements.

FORTY-SEVENTH: To the forty-seventh cross-interrogatory he saith:

My answer to Interrogatory No. 24 was based on actual observation. My recollection is quite clear, and I am testifying from my recollection; I made no measurements.

FORTY-EIGHTH: To the forty-eighth cross interrogatory he saith:

I made no measurements.

FORTY-NINTH: To the forty-ninth cross interrogatory he saith:

The responsibility rests with me to see that the ship is properly laden and seaworthy. This involves my being satisfied that the lights are in no way obstructed. The overlooking of the cargo in detail rests with the chief officer.

FIFTIETH: To the fiftieth cross interrogatory he saith:

The stanchion tumbled inboard, but not having measured I do not know to what extent.

FIFTY-FIRST: To the fifty-first cross interrogatory he saith:

The same answer applies.

FIFTY-SECOND: To the fifty-second cross interrogatory he saith:

A list of six degrees, arrived at in the usual way, by observation of the clinometer on the standard compass.

FIFTY-THIRD: To the fifty-third cross interrogatory he saith:

The same list, arrived at in the same way.

FIFTY-FOURTH: To the fifty-fourth cross interrogatory he saith:

23 feet 3 forward; 23 feet 5 aft.

FIFTY-FIFTH: To the fifty-fifth cross interrogatory he saith:

I do not know; no separate tally was kept of the deck cargo.

FIFTY-SIXTH: To the fifty-sixth cross interrogatory he saith:

I do not know; no separate tally was kept of the deck cargo.

FIFTY-SEVENTH: To the fifty-seventh cross interrogatory he saith:

My answer to the first part of this interrogatory is no. No survey was held when the ship was loaded prior to the collision.

FIFTY-EIGHTH: To the fifty-eighth cross interrogatory he saith:

I was in a position ahead of the lights after the collision when I went on the forecandlehead to examine the damage. I looked at the port light, and do now testify that the line of the port light was not deflected by the stanchions.

FIFTY-NINTH: To the fifty-ninth cross interrogatory he saith:

I am testifying from actual knowledge.

SIXTIETH: To the sixtieth cross interrogatory he saith:

Yes, I am.

SIXTY-FIRST: To the sixty-first cross interrogatory he saith:

I cannot remember all the questions that were asked me or the answers I gave, but if they are recorded in the evidence as set out in this question, I have no doubt the record is correct.

SIXTY-SECOND: To the sixty-second cross interrogatory he saith:

I consider I am in as good a position now to testify as I was at the time of the Inquiry before the inspectors. Moreover I have seen the deck cargo reloaded on the ship and have had opportunity for particular observation.

SIXTY-THIRD: To the sixty-third cross interrogatory he saith:

My recollection is just as clear. I never had any doubt or uncertainty on the subject.

SIXTY-FOURTH: To the sixty-fourth cross interrogatory he saith:

No.

SIXTY-FIFTH: To the sixty-fifth cross interrogatory he saith:

I have had no communication.

JOHN PURDIE, being duly sworn, doth depose and say as follows:

FIRST: To the first interrogatory he saith:

John Purdie: 47 years of age: business, seaman; address, 65 Cadder Street, Pollokshields, Glasgow.

SECOND: To the second interrogatory he saith:

I am.

THIRD: To the third interrogatory he saith:

Yes, I have measured the distance between the port light and the starboard light on several occasions, and, in particular, I remember measuring it on the 18th January at Tacoma. The distance between them, inside of the wicks, was ascertained by measuring between the chimneys by means of a tape line stretched across the chart room or bridge deck bulwark rail, and between points immediately above each of the chimneys. I was also present when a measurement was made at Esquimalt, when I assisted the captain to measure between the

inside edges of the upright portions of the iron brackets on the screens. I was also present on the 19th February at Esquimalt when these measurements were again taken in the presence of Messrs. Jack, Walker and Logan, and Mr. Hayden and Mr. Bogle. The reason why that measurement is impressed on my memory is on account of the number of people who were present, and also from the fact that when a measurement between the chimneys had been taken, after some discussion Mr. Walker insisted on another measurement being taken between the blocks on the forward end of the screens. I also assisted on the 6th of May, 1912, at Sydney, Australia, to take a measurement between the inboard sides of the brackets; I assisted the captain to make that measurement.

FOURTH: To the fourth interrogatory he saith:

I took a measurement at Tacoma on the 18th January, 1912, between the chimneys. I also took a measurement at Esquimalt, on a date that I do not recollect, between the inboard side of the upright part of the brackets. I was present when these same measurements were taken in the presence of the various people I have already mentioned. I was also present on the 6th of May, 1912, in Sydney, when we again took a measurement between the brackets. What impressed the taking of those measurements at Esquimalt on 19th February, 1912, on my mind was the fact of so many people being present, and, as I have already stated, on the taking of the measurements between the chimneys Mr. Walker insisted that we should take a measurement between the blocks on the screens, which was done, and it was found to be the same.

FIFTH: To the fifth interrogatory he saith:

The measurement taken at Tacoma in relation to the lights was taken between the inside edges of the wick, ascertained by measuring between the chimneys by means of a tape line stretched across the deck, and between points immediately above each of the chimneys. We also measured in Sydney, Australia, by means of the tape between the iron brackets.

SIXTH: To the sixth interrogatory he saith:

I do.

SEVENTH: To the seventh interrogatory he saith:

The distance obtained by measurement between the chimneys was 47 feet 7, and the measurement between the blocks was 47 feet 7. The measurement between the iron brackets was 46 feet 10.

EIGHTH: To the eighth interrogatory he saith:

I do not know the distance between the lights, but the lights on the flying bridge would be a little inboard of the lights on the lower bridge, on account of the build of the steamer.

NINTH: To the ninth interrogatory he saith:

I do not know; I have not taken a measurement.

TENTH: To the tenth interrogatory he saith:

The broad side of the stanchions was facing the rail.

ELEVENTH: To the eleventh interrogatory he saith:

The photographs were taken on the 20th of March, 1912. S.1 represents part of the foremast of the "Strathalbyn", with the electric masthead light in position, and the cage for the oil lamp underneath. S.2 is a view of the port side of the deck load, showing the stanchions and some of the lashings in position. It also shows part of the bridge with electric side light on the upper bridge, and side light screen on the lower bridge. S.3 represents the port side light screen, also the main rail and stanchions, and a portion of the deck load of the "Strathalbyn". S.4 represents the "Strathalbyn" lying loaded at Milwaukee Dock, Tacoma. This photograph was taken from a launch straight ahead of the ship. I remember seeing that photograph being taken. The photograph S.5 was also taken from the launch, a little closer to the ship. It merely shows the electric masthead light, and I think I can make out half of the cage where the oil lamp ships.

TWELFTH: To the twelfth interrogatory he saith:

On photograph S.1 I have marked the position of the oil lamp by a cross. On photograph S.2 I have marked the position of the light on the upper bridge by a cross, and I have marked the position of the screen on the lower bridge by a spearhead. On the photograph S.3 I indicate the light screen by the letter "Z", and I mark the line of the main rail "J". On the photograph S.4 I put a cross showing the position of the oil lamp.

I also mark the position of the electric light on the upper bridge by a dash. On the photograph S.5 I mark the position of the masthead light by a cross, and I mark the position of the electric light on the upper bridge by a spearhead, and the screen on the lower bridge by a dash.

THIRTEENTH: To the thirteenth interrogatory he saith:

Nine months.

FOURTEENTH: To the fourteenth interrogatory he saith:

About 38 feet.

FIFTEENTH: To the fifteenth interrogatory he saith:

A little over four feet.

SIXTEENTH: To the sixteenth interrogatory he saith:

The masthead light of the "Strathalbyn" gave a steady light from the time of leaving Tacoma until the point of the collision, and back to Tacoma.

SEVENTEENTH: To the seventeenth interrogatory he saith:

The masthead light of the "Strathalbyn" gave a steady light from the time of leaving Tacoma till the point of collision, and back again to Tacoma:

EIGHTEENTH: To the eighteenth interrogatory he saith:

The side light screens were attached to the woodwork of the lower bridge by means of screws through the fore and aft board of the screen.

NINETEENTH: To the nineteenth interrogatory he saith:

The side light screens were attached to the outside of the woodwork or bulwark of the lower bridge, as I said already, by means of screws through the fore and aft board of the screen. I should say the distance from the forward end of the screen to the fore end of the deck would be from six to eight inches, and the height above the deck would be about an inch and a half. The lamps were hung on an iron bracket fixed to the fore and aft board or side board of the screen. The bracket itself was such that there would be about an inch and a half clearance between the inside of the bracket and the side board of the screen. The thickness of the bracket would

be $\frac{5}{8}$ ths iron, and about an inch broad. There was a hole through the woodwork of the bulwark of the lower bridge and also through the inboard side of the side board of the screen directly behind the iron bracket. That hole was for the purpose of allowing a hand to be inserted to screw up the bolt in the lamp socket to secure the lamp in its place.

TWENTIETH: To the twentieth interrogatory he saith:

I have. I have already stated that I was present on several occasions when that measurement was taken, between the inside portion of the iron brackets—that is, between the port and starboard brackets, on two occasions at least at Esquimalt, and also in Australia. I was present when a measurement was taken in Esquimalt on 19th February, 1912, and in Sydney on 6th May, 1912. The distance as shown by those measurements was 46 feet 10 inches.

TWENTY-FIRST: To the twenty-first interrogatory he saith:

There had been no change in the distance between the time of the collision and the time of the measurements; there could be no change without an alteration of the structure.

TWENTY-SECOND: To the twenty-second interrogatory he saith:

I do.

TWENTY-THIRD: To the twenty-third interrogatory he saith:

47 feet 7 inches.

TWENTY-FOURTH: To the twenty-fourth interrogatory he saith:

As near as I can recollect, a Mr. Myers.

TWENTY-FIFTH: To the twenty-fifth interrogatory he saith:

I was present at all times during the time the cargo was being loaded both before the collision and after the collision. I superintended the stanchions being put in position, and after the reloading they were placed in the same position as they were before the collision. The stanchions, as shown in the photographs S.2, S.3 and S.5 are in the same position and they show the same ap-

pearance as the original stanchions that held the forward deck cargo.

TWENTY-SIXTH: To the twenty-sixth interrogatory he saith:

She had a similar list on both occasions.

TWENTY-SEVENTH: To the twenty-seventh interrogatory he saith:

7.10 p. m. on the 20th March, 1912.

THIRTY-FIFTH: To the thirty-fifth interrogatory he saith:

I should say the rays of light were not deflected as shown on this blue print.

CROSS INTERROGATORIES.

FIRST: To the first cross interrogatory he saith:

I was present during all the time the measurements were being taken at Esquimalt on the 19th February when the lawyers and the surveyors were present. The measurements were made by means of a tape line stretched across the deck. I held one end of the tape at all times, and Mr. Jack, Mr. Walker or the captain held the other end, I suppose, occasionally. Mr. Jack and Mr. Walker noted down all the measurements, and I also saw Mr. Hayden making a note or two.

SECOND: To the second cross-interrogatory he saith:

They were. I understand Mr. Jack and Mr. Walker were surveyors representing the "Virginian" and the "Strathalbyn", and they made this survey jointly. They were assisted by me.

THIRD: To the third cross interrogatory he saith:

The measurements were taken down by Mr. Jack and Mr. Walker, and I also saw Mr. Hayden taking some notes.

FOURTH: To the fourth cross interrogatory he saith:

They did, as near as I could see.

FIFTH: To the fifth cross interrogatory he saith:

Yes, they were.

SIXTH: To the sixth cross-interrogatory he saith:

I do not know anything at all about an agreement.

SEVENTH: To the seventh cross-interrogatory he saith:

I understood nothing at all about that.

EIGHTH: To the eighth cross-interrogatory he saith:

I know nothing at all about what the understanding was, and I know nothing about the blue print.

NINTH: To the ninth cross interrogatory he saith:

Yes; I understood he was representing the "Virginian" in the capacity of a surveyor.

TENTH: To the tenth cross interrogatory he saith:

Yes, he was present, and I understood he was representing the "Strathalbyn" as a surveyor.

ELEVENTH: To the eleventh cross interrogatory he saith:

No, I know nothing whatever about that.

TWELFTH: To the twelfth cross interrogatory he saith:

I had no conversation with either of the gentlemen referred to on that subject.

THIRTEENTH: To the thirteenth cross interrogatory he saith: No.

FOURTEENTH: To the fourteenth cross interrogatory he saith:

I have never seen the blue print, and I do not have a copy of it.

FIFTEENTH: To the fifteenth cross interrogatory he saith:

I made no notes at that time.

SIXTEENTH: To the sixteenth cross interrogatory he saith:

I made no notes.

SEVENTEENTH: To the seventeenth cross interrogatory he saith:

I got no information as to what they were taking the measurements for, and as I never saw the blue print I know nothing at all about it.

EIGHTEENTH: To the eighteenth cross interrogatory he saith:

I took those measurements personally at Tacoma and Esquimalt, at the request of Mr. Hayden and the captain.

NINETEENTH: To the nineteenth cross interrogatory he saith:

When I took the measurements at Tacoma the ship's carpenter was present, and when the measurement

was taken in the month of February at Esquimalt the captain was present. The captain was also present on the 6th of May when the measurement was taken in Sydney.

TWENTIETH: To the twentieth cross interrogatory he saith:

I was present.

TWENTY-FIRST: To the twenty-first cross-interrogatory he saith:

They did; I understood that Mr. Walker represented the "Virginian" and Mr. Jack represented the "Strathalbyn".

TWENTY-SECOND: To the twenty-second cross interrogatory he saith:

The measurements that they made were the distance between the chimneys, the distance between the blocks on the forward end of the screens, and the distance between the brackets on the screens. They also measured the height of the screen, and the breadth of the ship between the rails. Each and every measurement was examined and agreed to jointly by the surveyors.

TWENTY-THIRD: To the twenty-third cross interrogatory he saith:

I know nothing about that.

TWENTY-FOURTH: To the twenty-fourth cross interrogatory he saith:

I have never seen the blue print, and I do not have a copy; no one sent me a copy.

TWENTY-FIFTH: To the twenty-fifth cross interrogatory he saith:

No one ever spoke to me about the matter of a blue print.

TWENTY-SIXTH: To the twenty-sixth cross interrogatory he saith:

I should say approximately 48 feet 7.

TWENTY-SEVENTH: To the twenty-seventh cross interrogatory he saith:

At a point 6 feet forward of the superstructure I should say approximately 48 feet 5; at a point 18 feet forward of the superstructure I should say approximately 48 feet 2; at a point 30 feet forward of the super-

structure I should say approximately 47 feet 10; at a point 48 feet forward of the superstructure I should say approximately 47 feet 6, and at a point 63 feet forward of the superstructure I should say approximately 47 feet 4.

TWENTY-EIGHTH: To the twenty-eighth cross interrogatory he saith:

I did not take any measurements to enable me to answer that question.

TWENTY-NINTH: To the twenty-ninth cross interrogatory he saith:

The height is eight and a half inches, and breadth four and a half inches.

THIRTIETH: To the thirtieth cross interrogatory he saith:

I have taken no measurement to enable me to answer that question, and I do not recollect whether that measurement was taken by either Mr. Jack or Mr. Walker; the chart room bridge is just another name for the lower bridge deck.

THIRTY-FIRST: To the thirty-first cross interrogatory he saith:

I was present when the photographs were taken. They were taken on the 20th of March, 1912, at Tacoma. The name of the photographer was Mr. Hayden.

THIRTY-SECOND: To the thirty-second cross-interrogatory he saith:

With regard to photograph S.1, the photographer was standing on the forward end of the deck load about amidships, or a little on the port side, but I am unable to mark the position where he stood. In taking the photograph S.2 the photographer was on the forecastle head, leaning over the rails with the camera in his hand, which he pointed along the outside of the stanchions. I cannot mark his position on S.2. With regard to the photograph S.3, that photograph was taken on the lower bridge deck, the photographer standing directly behind the light screen. The camera was resting on the aft board of the light screen at a point equal to the width of the block on the fore end of the screen. I cannot mark the position of the photographer on that photograph either. The photograph S.4 was taken from a launch directly ahead of the steamer, and of course I cannot

mark the position of the photographer on the photograph. S.5 is another photograph taken from the same launch ahead of the steamer, only a little closer towards her. I cannot mark the position of the photographer.

THIRTY-THIRD: To the thirty-third cross interrogatory he saith:

I was present when those photographs were taken. I have already stated that I cannot mark the positions of the camera. In S.1 the camera was pointing aft; in S.2 the camera was pointing aft; in S.3 the camera was pointing forward; in S.4 the camera was pointing aft, and in S.5 the camera was pointing aft.

THIRTY-FOUR: To the thirty-fourth cross interrogatory he saith:

I now mark the letter "Y" on the photograph S.1 in a line with the electric masthead light.

THIRTY-FIFTH: To the thirty-fifth cross-interrogatory he saith: No.

THIRTY-SIXTH: To the thirty-sixth cross interrogatory he saith:

Yes; it is a fixture.

THIRTY-SEVENTH: To the thirty-seventh cross interrogatory he saith:

I have already given that measurement approximately, from my knowledge of the position of the screen. I made no measurement of that sort, and I have no recollection of anybody else doing so.

THIRTY-EIGHTH: To the thirty-eighth cross interrogatory he saith:

On the forecastlehead, and on the bridge.

THIRTY-NINTH: To the thirty-ninth cross interrogatory he saith:

I was in a position on the bridge to see the direct rays of the masthead light of the "Virginian".

FORTIETH: To the fortieth cross interrogatory he saith:

It was my duty, as officer on the watch, to see that the masthead light of the "Strathalbyn" was burning brightly. I saw it being hoisted into position, and from time to time after it was in position I saw it, and at all times it was burning brightly. Otherwise I did not examine it either before or after the collision.

FORTY-FIRST: To the forty-first cross interrogatory he saith:

I was on the bridge, and also on the forecastlehead. From the bridge I could see the rays of the light shining on the rigging and on the iron blocks and on the atmosphere.

FORTY-SECOND: To the forty-second cross interrogatory he saith:

The screens were built according to British Board of Trade regulations.

FORTY-THIRD: To the forty-third cross interrogatory he saith:

Yes, I was present when those measurements were made, and I understood that Messrs. Jack and Walker agreed to the measurements, but I have no knowledge as to whether they agreed to the notes of the measurements. The distance measured between the chimneys was 47 feet 7, and the distance between the outside edges of the blocks on the fore end of the screen was also 47 feet 7. The distance measured between the inside edges of the upright portion of the brackets was 46 feet 10, and the height of the screen was $8\frac{1}{2}$ inches.

FORTY-FOURTH: To the forty-fourth cross interrogatory he saith:

I took those measurements myself on several occasions: at Tacoma on 18th January, 1912, when the carpenter was present; at Esquimalt some time prior to 19th February, and also on 19th February; and also on 6th May, at Sydney. I took notes or jottings of the measurements at the time, but when the surveyors found the same measurements at Esquimalt on 19th February I destroyed my notes.

FORTY-FIFTH: To the forty-fifth cross interrogatory he saith:

I answered that question in answer to cross interrogatory No. 43.

FORTY-SIXTH: To the forty-sixth cross interrogatory he saith:

The carpenter was present at Tacoma, and the captain was present at Sydney. The measurements were made at the request of Captain Crerar and Mr. Hayden.

FORTY-SEVENTH: To the forty-seventh cross interrogatory he saith:

I made no measurements.

FORTY-EIGHTH: To the forty-eighth cross interrogatory he saith:

I said in my last answer that I made no measurements, so that I cannot answer this question.

FORTY-NINTH: To the forty-ninth cross interrogatory he saith:

The first stanchion holding the deck cargo in position tumbled inboard, and from a point level with the light; the stanchion was inside the line of the light.

FIFTIETH: To the fiftieth cross interrogatory he saith:

As the same method of loading and reloading was adopted on both occasions, the stanchion must have been in the same position as it was prior to the collision, and it was so erected according to my observation.

FIFTY-FIRST: To the fifty-first cross interrogatory he saith:

Six degrees to starboard, as shown by the clinometer on the standard compass.

FIFTY-SECOND: To the fifty-second cross interrogatory he saith:

She had a similar list on both occasions, according to the clinometer on the standard compass.

FIFTY-THIRD: To the fifty-third cross interrogatory he saith:

23 feet 3 forward; 23 feet 5 aft; 23 feet 4 mean.

FIFTY-FOURTH: To the fifty-fourth cross interrogatory he saith:

I am unable to answer that question, as the cargo on the forward deck and the cargo on the after deck was not measured separately.

FIFTY-FIFTH: To the fifty-fifth cross interrogatory he saith:

I am unable to answer that question, for the reason already stated.

FIFTY-SIXTH: To the fifty-sixth cross interrogatory he saith:

I was on the forecandlehead on the night we left Tacoma, and was moving about in various positions on

the forecastlehead, until such time as I had the anchor secured. Before leaving the forecastlehead I looked over the rails on both sides and examined the lights, before going on the bridge, as is usually the practice on such occasions.

FIFTY-SEVENTH: To the fifty-seventh cross interrogatory he saith:

I am testifying from actual knowledge gained by observation on the night of the collision.

FIFTY-EIGHTH: To the fifty-eighth cross interrogatory he saith: I am.

FIFTY-NINTH: To the fifty-ninth cross interrogatory he saith:

Yes, the question was asked and answered as stated. Owing to the blocks on the forward end of the screen being parallel with the inside wick of the lamp a portion of the rays of light can be seen on the forecastlehead.

J. N. McCUNN, Commissioner.

(Filed Mar. 29, 1913.)

No. 1036.

TESTIMONY.

BE IT REMEMBERED, that pursuant to the order of Court herein, made on the day of January, A. D. 1912, whereby the above entitled cause was referred to me for the taking of testimony, and reporting the same to the Court,

Before me, Raymond J. McMillan, one of the United States Commissioners for the District Court of the United States for the Western District of Washington, Southern Division, at the City of Tacoma, County of Pierce and State of Washington, on the 25th day of anuary, A. D. 1912, personally appeared the parties hereto by their proctors:

Messrs. HUFFER, HAYDEN & HAMILTON,

Proctors for Libelant, and

Messrs. BOGLE, GRAVES, MERRITT & BOGLE,

Proctors for Respondent, and

Messrs. HUGHES, McMICKEN, DOVELL & RAMSEY,

Proctors for Claimant,

Together with the following named witnesses on behalf of the libelant: John H. Callan, George E.

Rich, James Clifford Eoff, F. P. McIntyre, John Daniel McLeod and Joe Miguel, who being by me first duly sworn were then and there severally interrogated by the proctors for the respective parties, and as will more fully appear from the written testimony hereto attached, said witnesses testified as hereinafter set forth, by questions and answers, as follows, to-wit:

STIPULATION.

MR. HUGHES: It is agreed that the signatures of the witnesses to their testimony may be waived, and the transcript of the evidence received without the witnesses signing.

MR. HAYDEN: That is satisfactory.

MR. JOHN H. CALLAN, a witness produced on behalf of the libellant, being first duly sworn, testified as follows:

DIRECT EXAMINATION.

(By MR. HAYDEN.) Q. What is your name?

A. John H. Callan.

Q. How old are you, Mr. Callan? A. Forty.

Q. Where do you reside? A. Tacoma.

Q. What is your business?

A. I am connected with the Coast Coal Company.

Q. Were you on board the steamship "Strathalbyn" on the night of January 12th, 1912, when she was in collision with the "Virginian"?

A. Yes, I was.

Q. State in your own way what you did and what took place a few minutes before the collision, giving an account of the whistles blown and telegraphed to the engine room, if you heard any, and try and state what transpired?

A. I was in the chief engineer's room on the "Strathalbyn" and I heard three whistles at probably a period of a minute apart, and then I heard a bell in the engine room, one bell; then I started to go on deck and heard another whistle. I went out and went on the port side, to the port rail amidships, on the bridge deck, and I saw a steamer, or the lights, the starboard light and foremast light, coming down on

the "Strathalbyn," and then I heard the crash and she hit.

Q. What caused you to leave the engineer's room?

A. The whistles and the bell to stop.

Q. Now going from the engineer's room, what did you first do?

A. I looked down into the engine room, in the alley-way from the engineer's room to the deck to see if she was stopped.

Q. What did you find?

A. I did not hear the engines moving.

Q. Then what did you do?

A. I went on deck.

Q. What whistle was that which blew just before you left the engineer's room?

A. It was one blast. After I got on deck I heard,—in fact I had been on deck a minute or two when I heard the danger whistle, three or four quick blasts, when I was on the rail of the "Strathalbyn."

Q. Which one of these three or four passing signals you heard was the one which blew just before you left the engineer's room?

A. There was one and then the bells to stop, and then another.

Q. You left the engineer's room when with respect to the bell to stop?

A. I left when I heard the bell to stop, and almost right about the same time I heard another blast of the whistle.

Q. Have you ever been on the water or followed the sea at all? A. For six years.

Q. Do you know what the meaning of these blasts of the whistles is?

A. No, not particularly. I was not a navigator or an engineer. I was purser. I would not be sure of them.

Q. Were these blasts of the whistle, these separate distinct blasts which you heard about a minute apart, passing blasts?

A. I do not understand just what is meant by the question as to passing blasts.

MR. HUGHES: We will admit that the whistles heard by the witness were passing blasts.

MR. HAYDEN: How long were you on deck before these vessels came together?

A. I should judge two or three minutes.

Q. How long after you heard the danger signal from the Strathalbyn would you say it was before the Virginian struck her?

A. Well she was very close to her then.

Q. Could you make out the hull of the Virginian and her position from where you were standing?

A. In a general way. I did not make out the whole hull; I just looked at the forward part to see if she would hit.

Q. You were standing in what place on the Strathalbyn?

A. About midships on the port side, bridge deck.

Q. Forward or aft of the engine room house?

A. Aft.

Q. Of the engine room house?

A. I was about abreast of that. I came out that alley-way a little aft.

Q. Did you stand in that position until after the impact? A. Yes, sir.

Q. Could you see the bow of the Virginian strike the bow of the Strathalbyn? A. No, sir.

Q. Did you have occasion or did you in fact look at the lights on the Strathalbyn immediately after the collision? A. Yes, sir.

Q. What light did you look at? A. The port light.

Q. State please how soon after the collision it was and what you did with respect to it?

A. It was when the Flyer was standing by and hailed the Strathalbyn.

Q. What did you see?

A. I had a man with me who was going down to inspect the coal, and make a report on the coal that the ship was burning; it was our coal. He was with me on the chart room deck at this time and asked me about the lights on the Flyer, and where the corresponding lights on the Strathalbyn were, and I took him to the port side

of the chart room deck and showed him a port light burning, and the foremast head-light.

Q. How did that light appear to be burning?

A. It looked all right to me,—an ordinary red light.

Q. What did you do immediately after the collision?

A. I climbed the ladder and went on the mid-ship house to see if anybody was up there with the boat, and then I came right down on the port to the Captain's boat, or the deck where it is, and stayed there waiting for any instructions we might get, and help them get the boat out.

Q. Did the Virginian seem to be moving rapidly through the water at the time of the collision, or otherwise?

A. Well she appeared to be moving rapidly to me.

Q. How long before the Virginian struck the Strathalbyn did the Virginian's danger signals blow, if you heard them? A. I did not hear them.

Q. You did not hear any whistles at all from the Virginian?

A. Not while I was on deck, and I did not hear any while I was in the chief engineer's room.

CROSS-EXAMINATION (BY MR. HUGHES.)

Q. How many single blasts of the whistle did you say you heard while you were in the engine room before you came out on deck? A. Four.

Q. Four single blasts of the Strathalbyn's whistle?

A. Yes.

Q. Did you hear any other blasts from any other ship while you were in the engine room? A. No.

Q. You did not hear any blasts from the Flyer?

A. No sir.

Q. And it was immediately after the fourth blast that you heard that the bell sounded for stopping the engine? A. No sir.

Q. When was that?

A. Between the third and fourth blast.

Q. As soon as the bell for stopping the engine sounded, you started out of the engine room?

A. I started out of the chief engineer's room.

Q. And you think before you got out the next single blast was sounded, making the fourth? A. Yes, sir.

Q. In other words that blast was sounded before you got out on deck? A. Yes.

Q. After you got out on deck did you hear any other single blast from the Strathalbyn whistle? A. No, sir.

Q. The first blast you heard from her after you got on deck was the four blasts in quick succession that you speak of? A. Yes, sir.

Q. About how long was it after the last blast you heard in the engine room before you heard these four blasts?

A. I should judge it was about two minutes, or three.

Q. As I understand, when you got out of the engineer's room on the port side, you saw the lights of the steamer ahead? A. No, sir, not ahead.

Q. Well ahead and on your port bow?

A. I saw the green light, the starboard light and foremast head-light.

Q. You saw a green light and head-light of the vessel ahead of you? A. She was not ahead of us.

Q. Well not in ship parlance,—(interrupted).

A. She would be off on the port bow, in ship parlance.

Q. How much off your port bow; what I mean, she was in front of you in the water but you think off your port bow? A. She was off our port bow.

Q. About how much?

A. Well I don't know; I watched her closely.

Q. But could you state how much she appeared to be off your port bow?

A. Yes, four or five hundred feet or more. I couldn't judge distances on the water at night.

Q. Would you know how many points?

A. I know nothing about points.

Q. Could you see the bow of your own ship?

A. No.

Q. Why not?

A. Because I did not look at it. My attention was naturally watching the ship which I thought would collide with us.

Q. Well, was the deck that you were standing on the one on which she had her forward cargo of lumber?

A. No, sir.

Q. Which deck was it?

A. I was on the bridge deck that runs amidships; it is the middle deck.

Q. You were on the lower bridge deck below the flying bridge? A. Yes.

Q. On the chart room deck?

A. No, the deck below the chart room deck.

Q. Is the chart room on the same level as the flying bridge? A. No, sir.

Q. Then you were not on the same deck with the lower bridge?

A. Well they call it the bridge deck I think. It is the deck that you would naturally get in coming aboard the ship. It would be the promenade deck on a passenger ship.

Q. That is below the bridge deck?

A. Well I do not know what they call it on that ship. I call it the chart room deck because the chart room is there.

Q. And in front of the chart room there is a bridge, and above that there is another bridge?

A. That is what you call the flying bridge.

Q. How much was this deck above the forward deck on which the cargo of lumber was; that is the deck on which you stood when you came from the engineer's room?

A. I do not know. I was aft. That was nearly the back end of this deck.

Q. But by looking ahead you would look up against the lumber cargo?

A. Well I do not remember anything about that. I know there was cargo but I don't know where it reached.

Q. You say you could not see the actual collision from where you were?

A. I could not see the bow of the Virginian from where I was, to tell where it hit the Strathalbyn, but I saw the ships come together.

Q. But you did not see the bows come together?

A. No, I could not tell from where I was standing whether she hit ten or twenty or fifty feet from our bow.

Q. You could not see the actual place of the collision on account of this cargo of lumber?

A. No, it was not on that account; I was not looking that way, I was looking over the rail.

Q. You did not see more than one mast-head light on the Virginian?

A. That is all that I noticed. My attention was right on the bow or the fore-part of the Virginian.

Q. Didn't you hear the Virginian give three blasts of the whistle in answer to the four blasts you have mentioned from the Strathalbyn?

A. I did not hear them; I was inside.

Q. Did your ship appear to be swinging?

A. She appeared to be stopped, to me.

Q. Did she appear to be swinging on the helm,—turning? A. I did not notice it.

Q. What is your best judgment as to the angle of these two ships at the time of the collision?

A. Do you mean,—I don't quite understand.

Q. Were they coming end on or were they approaching each other and colliding at an angle? A. Yes.

Q. How much of an angle?

A. Almost right angles.

Q. Now coming back again,—as to these blasts you heard in the engine room, what would you say was the space of time between them?

A. I would judge about a minute apart.

Q. And then after you were out on deck you thought you were there a couple of minutes before you heard the danger signal?

A. It seemed that long to me.

Q. And about how long after that until the collision appeared to you to take place?

A. Almost at the same time; very closely.

Q. Very quickly afterward? A. Yes, sir.

Q. Afterwards you say you went up on the deck above; the chart room deck?

A. At first I went on the house that the engineer's room is in; I climbed up that ladder and looked to see if anybody was coming up.

Q. What deck is that?

A. That is not a deck, but on top of the house on the bridge deck.

Q. That is the same deck the small boats are swung from?

A. Yes, sir. Then I came right down and went forward and went on the chart room deck.

Q. Which would be on the same level?

A. Yes, but on a different house.

Q. But about the same level. A. Yes, sir.

Q. On which side of you was it the Flyer came up?

A. When I saw her she was on our starboard.

Q. But you went over to the port side? A. Yes.

Q. And you speak of calling a gentleman's attention to the light,—looking at the port light? A. Yes, sir.

Q. Where was that light from where you were standing?

A. It was only about, perhaps, five or six feet from where I was standing.

Q. And just where?

A. It was on the,—we walked right over this deck and looked over the side.

Q. And it was a little below the deck you were on?

A. It was on the foot of the deck.

Q. Was it on the level of the deck, with the floor?

A. Well, I don't remember, from where I was you could see it.

Q. Where was it with reference to the lower bridge?

A. What do you mean by the lower bridge?

Q. The bridge immediately under the flying bridge, in front of the chart room.

A. The chart room deck?

Q. Yes, the bridge or deck that runs in front of the chart room across and immediately under the flying bridge; was it directly under the flying bridge?

A. I do not know. I was not looking at the flying bridge. It was on the port side, of course, of the deck, well up and forward.

Q. You mean that it was on the port side to the front of the chart room deck you speak of? A. Yes, sir.

Q. That would bring it under the flying bridge, or approximately so? A. I can't say that; I don't know.

Q. Where were you standing when you saw the port light? A. On the chart room deck.

Q. And whereabouts on that deck?

A. On the port side, well forward, on the chart room deck.

Q. Were you by the side of the chart house?

A. No, sir.

Q. In front of the chart house?

A. I was over to the left or port side of the chart house.

Q. Did you at any time go out on the forward deck of ship where the lumber cargo was? A. No, sir.

Q. At what time did you board that ship?

A. I think about 5 o'clock in the afternoon.

Q. Was it dark? A. No, sir.

Q. Did you observe the forward cargo.

A. Not particularly.

Q. You paid no attention to it?

A. I noticed it was there; it did not interest me any.

Q. Going back to this light; from where you stood, did you have to lean over or look down to see it?

A. I had to look down; I don't remember whether I leaned over. It was naturally below me.

Q. Below your feet? A. I could not say.

Q. Where were you when you saw the mast-head light? A. Which mast-head light?

Q. I thought you said you saw a mast-head light on your Strathalbyn? A. Yes, sir.

Q. Where were you then?

A. On this same deck.

Q. At the same place where you saw the port light?

A. I don't know as I was in identically the same place, because I was looking over the port rail and could not say.

Q. But where were you standing when you looked at the mast-head light?

A. On the chart room deck, but it was not at the same time I was looking at the port light.

Q. But as to the place you were when you were looking at the mast-head light?

A. All I can say, I was somewhere on the port side of the chart room deck. I was around the deck all over the port side.

Q. Where was this mast-head light?

A. It was on the foremast of the Strathalbyn.

Q. How high on the foremast?

A. It was not at the top of it, but where they usually are, where the stays come up; it was in the box.

Q. Did you see a box there? A. Yes, sir.

Q. Were you behind it? A. No, sir.

Q. Was it in front of you, that is this mast on which it stood? A. Yes, sir.

Q. How far in front of where you were standing?

A. I do not know.

Q. Have you any idea?

A. I do not remember; I did not gauge it; I took no interest in it.

Q. The light was above and in front of you?

A. Yes, sir.

Q. Was it suspended below the crosstrees on the masthead? A. I do not know.

Q. Did you see the crosstrees? A. No, sir.

Q. Now you observed the flying bridge where the officers are in navigating the ship, when you were on the port side?

A. I may have observed; I know it was there.

Q. When you looked up at the masthead light, were you behind and back of that flying bridge?

A. I was in the forward part, on the port side of the chart room deck, not on the bridge. The bridge was above me; it was there, but I did not observe it.

Q. But did you look over that bridge to the light, or were you behind it so as to look over?

A. I was not on the same level with it.

Q. It was above you one deck? A. Yes, sir.

Q. It would obstruct your view of any light above unless you stood either behind it or in front of it?

A. If I stood well forward on the chart room deck I could see it.

Q. Did you see?

A. You mean the light or the bridge?

Q. Did you stand well forward on the chart room deck? A. Yes, on the port side.

Q. So that you saw under the bridge looking up past the bridge, beneath it, forward to the bow in front?

A. I don't quite understand.

Q. I want to get at where you stood on the chart room deck.

A. I stood on the port side well forward on the chart room deck.

Q. How near the front of the chart room deck?

A. I could not tell you exactly.

Q. Have you any idea?

A. No; I was well forward.

Q. Was it ten or fifteen feet back from the front of the deck?

A. No, not so far as that; it might have been two or four feet, or it might have been a foot.

(Witness excused.)

MR. GEORGE E. RICH, a witness called and sworn in behalf of the libelant, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. What is your full name?

A. George E. Rich.

Q. Where do you live?

A. My home is in Port Angeles.

Q. Where are you living now?

A. In the City of Tacoma.

Q. How old are you? A. Twenty-one.

Q. What were you doing on the night the Strathalbyn and the Virginian came into collision?

A. I had been up-town and had come down sometime before eight o'clock to the Foss Boat House.

Q. That is located where?

A. Below the Commercial Dock here.

Q. When you got there, what happened?

A. I sat around awhile and I heard there was a collision out at Robinson's Point and that it was the Virginian and the Strathalbyn. Some man came down to go out and did not get out right away, stayed around

there, and the Virginian came in, and I went over to the Eureka Dock and saw her.

Q. Did you go in a launch or on foot?

A. On foot, just a few steps. Then came back, and about 11 o'clock we went to the Strathalbyn in launch Number 10, belonging to Foss.

Q. What position did you have aboard the launch?

A. Then I did not have a boat of my own. I had the head end that night; that is at the wheel.

Q. When you went out to the Strathalbyn, where did you first pick her up?

A. Just this side of Robinson's Point a little.

Q. Where were you when you first saw her?

A. A little the other side of Dash Point.

Q. The Strathalbyn was a little bit south of Robinson Point and you were a little south of Dash Point?

A. No, we were on the other side of Dash Point, a little north.

Q. What did you see?

A. I saw a red light first, and I said "there is the Robinson light." Before that I said I thought we would chase her pretty near to Seattle before finding her. At first I only saw one red light burning very bright; I thought it was the Robinson light. Then I saw the masthead light as she swung around. She just came off the beach then.

Q. The masthead light was considerably higher was it than the red light? A. Yes it was.

Q. Tell what lights you saw as you approached the Strathalbyn?

A. When we were about three-fourths, or a mile away, we saw the three lights.

Q. What lights?

A. The green, red and masthead light.

Q. You saw them all three at one time?

A. All three at once.

Q. Did you observe whether or not you could see the lights directly ahead of the Strathalbyn? A. Yes

Q. Could you? A. I could.

CROSS EXAMINATION.

(BY MR. HUGHES.)

Q. How did you come to go down to the dock that night?

A. I wanted to see what she looked like; how she was damaged.

Q. How did you come to be downtown; just loafing?

A. No; when do you mean.

Q. When you heard about the collision?

A. I came up-town to get some tobacco, and went down to the boat-house when I heard it.

Q. Were you on duty that night? A. I was.

Q. You were working for Foss? A. Yes, sir.

Q. On a little gasoline boat? A. Gasoline.

Q. Did you take anybody out with you?

A. We took two men.

Q. Who were they?

A. One was a reporter, I believe, and I do not know the other party. I put the reporter aboard the Strathalbyn.

Q. Were you hired to take anybody out?

A. Some man came down for a launch and I went out.

Q. Then you were hired to take somebody out?

A. Yes, the launch was hired.

Q. And that is why you went out?

A. That is why I went out, yes.

Q. Don't you know who the other man was?

A. I do not.

Q. Who employed your boat to take them out?

A. I do not know. It was this other man. The reporter went along when he found a launch was going out.

Q. Did you see any lights from the fore-castle head as you approached the Strathalbyn?

A. We saw a few lights in the port holes on the port side.

Q. How many did you see?

A. Two, I believe, or three.

Q. Did you see them before you saw the others?

A. No, they were very dim.

Q. How near did you get to the ship before you saw them?

A. Right up to where I could see her hull plain.

Q. Were you running the launch?

A. I was on the head end, at the wheel.

Q. Steering? A. Steering.

Q. The red and green light you saw, how did they appear; were they level with each other? A. No.

Q. They were not level with each other? A. No.

Q. How much difference?

A. The green light was considerably lower than the red on account of the list.

Q. There was a list in her was there? A. Yes, sir.

Q. And how much lower?

A. I would say about fifteen or twenty feet, I should judge.

Q. How would you know then that they were side lights, if there was such a difference?

A. I knew she was listed.

Q. You had seen her before?

A. I saw her when she was in the stream, before she went out, in the afternoon, lying off—about the river.

Q. Did she appear to be listed as much as that?

A. No, not so much.

Q. Did you see any other light except the mast-head light up in her masts, or anywhere, on any deck?

A. No, sir; I did not.

Q. Did she have a pretty heavy cargo of lumber in front?

A. Well I do not know as it was heavier in front than it was aft.

Q. Well she had a pretty high cargo in front?

A. It was not so high, but the sticks were high.

Q. That is the stanchions that held it?

A. Yes, considerably higher than the lumber.

Q. After seeing any of the lights, did you lose them again?

A. We lost the green one as we passed the port of her, after we came nearer her port.

Q. Did you sometimes lose them in the meantime?

A. I was not always looking.

Q. You were not paying especial attention to it?

A. No.

(Witness excused.)

MR. JAMES CLIFFORD EOFF, a witness called and sworn in behalf of the libelant, testifies as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. Your full name? A. James Clifford Eoff.

Q. Where is your home?

A. My home is in Salem, Oregon.

Q. Where are you living now?

A. I reside in Tacoma now. I work for the Foss Launch Company.

Q. Were you working for the Foss Launch Company on the night that the Virginian and the Strathalbyn had a collision? A. Yes, sir.

Q. Did you go out in a launch towards the Strathalbyn after you heard that they had been in collision?

A. Yes, sir.

Q. Tell what you did that night after you heard of the collision.

A. I was on the night run that night; I was running back and forth to the Milwaukee dock, and I made a trip about 10:20, took the customs over, and brought the watchman back. In the meantime there was a reporter came down and wanted to go out, but did not have any boat, because I could not get away until after 11 o'clock. So when I got through with the customs after 11 o'clock I came in and there were two men down there to go out. But the reporter had come back up town and did not go out. I don't know the man's name who went out, who chartered the boat. We started out about a quarter after 11, I think, somewhere around there.

Q. Now where did you first pick up the Strathalbyn?

A. I would not say for sure, because I was back by the engine and was not paying much attention. I thought she was off Dash Point, but found out it was further. I thought it was Dash Point when we picked her up.

Q. What did you see in regard to her lights; did you pick her up by her lights? A. Yes.

Q. What lights did you see?

A. I saw the red light first, and the head light, the headmast light.

Q. Describe the lights you saw at any time on that trip over; where was the Strathalbyn when you saw those lights?

A. I don't know exactly. I was not paying any attention to that. I was not at the wheel, and I could not say just where she was. I thought it was off Dash Point but they say it was further, but I was not paying any attention.

Q. Did you see any other lights but the red light?

A. I saw the green light when we got close. It was harder to see the green light at that time because she had such a list, but we could see it after we approached and got closer.

Q. Did you see all the lights at one time, together?

A. Yes, sir.

Q. Could you see the lights directly ahead?

A. Yes, directly ahead; I did not see the green light when we first came head on, but as we got closer I could see it. Of course she had such a list and it was harder to see than the port light.

Q. Could you make out the hull of the Strathalbyn any considerable distance away that night?

A. Yes you could by the lights; the head light and head mast light and the red light.

Q. Could you make out her outline of the hull without the lights?

A. Well no, not any distance away.

CROSS EXAMINATION.

(BY MR. HUGHES.)

Q. It was a pretty dark night?

A. It was dark; just ordinary; it was not moonlight.

Q. On which side did you land your passengers on the Strathalbyn? A. We put them on the port side.

Q. Then you went up to her on the port side?

A. Yes, sir.

Q. Was she coming towards you?

A. Yes; well, we turned around and went by and came up with her.

Q. You went by on which side?

A. On the port side and turned around and came up with her to land the passengers.

Q. You went around by and came up along the same side, the port side? A. Yes, sir.

Q. And how fast was she going through the water?

A. Oh, probably going—I don't think she was making over five miles an hour or six at that time.

Q. How fast is your boat?

A. Between seven and eight miles I think.

Q. At what time did you get out to the Strathalbyn?

A. I don't know exactly what time it was, somewhere around 12 or a quarter past.

Q. You were busy with your engine and did not pay any especial attention?

A. Well, when we were landing I was, but I was looking out. Of course I was not in the front end of the boat.

Q. You did not have any occasion to pay any special attention until you were getting close enough to plan how you would get alongside to put off your passengers?

A. Yes, sir.

Q. That is the only time when you had occasion to pay any especial attention?

A. All I had to do was to stand by the engine.

Q. You don't know who those passengers were?

A. Well, one was the agent.

Q. What is his name?

A. I could not tell you that.

Q. Who was the other?

A. He was a fellow who works under the agent. He does the loading of the cargo, the lumber.

Q. You don't know the names of either?

A. No. I have had them on the boat several times.

Q. Have you talked to them since about this matter?

A. No.

Q. Not at all?

A. No, sir, I have not talked to them at all.

Q. Have you talked to anybody since?

A. No, sir.

Q. You have not had any conversation with anybody since that time about what you saw that night?

A. No, I have not.

MR. HAYDEN: This is all objected to as immaterial.

Q. Did you tell anybody what you have testified to?

A. No, sir.

RE-DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. The launch you were on has kind of a sliding door on the house, hasn't it, near the engine room?

A. Yes, sir.

Q. And that is where you saw the vessel from?

A. Yes, sir.

Q. You stood up in the sliding door-way and looked forward? A. Yes, sir.

MR. HUGHES: Do you know what course you steered from Tacoma?

A. Northwest by west, to Browns Point.

Q. Did you have a compass?

A. Yes, sir, but it was not really dark enough to steer by the compass.

Q. What course did you steer after leaving Browns Point?

MR. HAYDEN: That is objected to as not proper cross examination.

A. About due north,—Dash Point to Robinson Point.

Q. But what course did you steer?

A. I don't know, I was not steering; he was steering.

Q. You do not know what course your boat went?

A. No, but it was somewhere around there; I could not tell that.

(Witness excused.)

MR. F. P. McINTYRE, a witness produced on behalf of the libellant, being duly sworn, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. Your full name? A. F. P. McIntyre.

Q. How old are you? A. Thirty-nine.

Q. Where do you reside? A. Tacoma.

Q. You were a passenger on the steamer Flyer on the night the Strathalbyn and the Virginian came together? A. Yes, sir, I was.

Q. State in your own way what you saw that night with respect to this collision or heard?

A. We left Seattle at seven o'clock and the Flyer blew one whistle to the Virginian and passed her about three hundred feet, I would judge; I was inside and walked to the door and looked out. I was on the starboard side of the Flyer just by the door forward of the stack, right abreast of the stack. I went back and took my seat again and the next I heard was the Flyer's one whistle and I walked across to the port side again and went outside, and just as I got outside I heard another steamer blow one whistle; that was off our port bow; at that time she was quite a little ahead and I would judge about one thousand to twelve hundred feet away; you could see her headlight and her port side light, and I stood there and watched her until she got just past our stern; we had passed her and she blew one more whistle. I went inside then, slammed the door, as the door don't shut easy, and walked over to the starboard side to get my overcoat, and just as I got there I heard the danger signal sounded from another steamer. I immediately rushed to the port side and went out and had not been out more than fifteen seconds before the two vessels came together, and I saw the sparks fly like from an emery wheel grinding steel, and a dull thud like blasting of a stump. At that time the gong of the Flyer rang and the helm went over,—I could not tell which side but I could hear the wheels work the rope in the pulleys. I went inside and got my coat and came out, and by that time the vessel had come around and you could see the lights altogether. I went up on the deck in front of the pilot house, and came around, and we approached the two vessels as they still seemed to be together at that time, and Captain Burns went up and asked them while they were both together if he could be of any assistance. He could not hear very well and the Virginian backed away and went around, and at the same time the Strathalbyn came ahead around and we were standing at the bow.

Captain Burns went up ahead on to the Virginian starboard side and asked them if they needed assistance, and he told them no, he was all right, but to see how about the other boat. Burns went ahead alongside the other vessel about three hundred feet, and Captain Burns asked them if they needed assistance, and the reply was that she was not making any water, to report him in Tacoma, that he was coming back to Tacoma, and also said at the time, "What the hell was he trying to do."

Q. Who said that?

A. It sounded like Herbert F. Beecher's voice to me. So, when we approached the Virginian, there was a bright light from her starboard side; you could see the hull of the vessel; as we went alongside the Strathalbyn you could see her hull and cargo, and you could see she had considerable list to starboard, and was down by the head. There was a bright light from the bow of the Virginian and looking at the damage one passenger made the remark that you could see right through her inside.

Q. When you swung around these boats and came up, you say they appeared to be together; on what side did you approach the Strathalbyn?

A. On the starboard side.

Q. Did you ever go around to the port side of her again after the collision? A. No sir, we did not.

Q. When you saw the Strathalbyn approaching the Flyer after you heard her first whistle, could you make out her hull?

A. You could not make out her hull, but you could see in the darkness,—it was very dark, but extremely clear,—it looked like a head land. You could see a big, black loom like a sail on a sailing ship.

Q. You say that was probably one thousand to twelve hundred feet away?

A. I think one thousand or twelve hundred feet.

Q. That is the distance you saw her?

A. Yes, and by my watch when they struck it was exactly five minutes after eight. I pulled my watch out and looked.

Q. How did the port light appear to be burning when you passed?

A. I could not tell how it was burning, but it was an ordinary bright red light.

Q. How was the head light?

A. It was simply a bright light; the same as any other ordinary bright light.

Q. Did you watch the vessels after the Flyer had started to Tacoma, any distance? A. Yes, sir.

Q. Could you see the Strathalbyn's headlight as you drew away? A. Yes, sir.

Q. And her starboard light?

A. Her starboard light, yes.

Q. How far away would you say you could see the headlight of the Strathalbyn?

A. I should judge I stood there talking to Captain Burns on the port side of the Flyer under his window in the pilot house, and I watched it possibly for,—I could not say how far, but I talked to him about ten minutes, and you could see it all that time, and I remarked to Captain Burns that I did not see how it would be possible for two vessels with all their lights intact as those were,—because I particularly noticed the lights of the Virginian after the collision,—could have collided. I said I did not see how it was possible.

MR. HUGHES: We object to the conversation with the Captain and move to strike.

Q. Did you hear any whistles that you distinguished as coming from the Virginian?

A. I did not; I was inside when the other signals were blown on the other vessel.

CROSS EXAMINATION.

(BY MR. HUGHES.)

Q. What is your business?

A. I am representing Sims & Levy in Tacoma, the Sailor's Home.

Q. You are the agent of their Sailor's Home in Tacoma? A. Yes, sir.

Q. How long have you been here?

A. I have been in Tacoma since September a year ago.

Q. Prior to that where were you?

A. Port Townsend.

Q. And you lived at Port Townsend a long time, have you? A. Yes, sir.

Q. You were inside the Flyer when she passed the Virginian? A. Yes, sir.

Q. Did you observe the Virginian as you passed?

A. Yes, sir.

Q. You saw her lights through the window?

A. Yes.

Q. You were in the main passenger room of the Flyer? A. Yes.

Q. It is brilliantly lighted in there isn't it?

A. Yes, sir.

Q. And looking out of those windows from that brilliantly lighted room, you saw the Virginian and saw how far she was away when you passed?

A. I saw the light at about three hundred feet I would judge, because we were quite close.

Q. On which side? A. On the starboard side.

Q. How long after that did you go outside?

A. I should judge about three minutes.

Q. What did you go out for?

A. I went to look out through the window when we passed, and when the Flyer sounded one blast again I walked over again and went out the door as we generally do coming across on those boats, and I looked ahead and on the port side, and saw this red light.

Q. That was ahead of you?

A. It was coming ahead on the port bow.

Q. Did you hear the Flyer give a whistle about the time you saw the Virginian in passing?

A. The Flyer whistled just before then.

Q. Did you hear the whistle from the Virginian in answer. A. I did not.

Q. Now about three minutes after that, you think you heard the Flyer give another whistle? A. Yes.

Q. Did you hear a whistle from any other ship?

A. I did not.

Q. Was that the reason you went out, because she blew a whistle?

A. Well, yes, because the Flyer had been blowing her whistle.

Q. How did you know on which side to go?

A. Because I knew it was one whistle.

Q. And you distinguished that whistle, and that is why you went out on the port side? A. Yes, sir.

Q. You were sitting on the starboard side?

A. I was sitting on the starboard side.

Q. And after you got out there, did you hear this other vessel to which the Flyer whistled give an answer?

A. Yes, sir.

Q. You heard her answer the Flyer?

A. I heard one whistle from her; I supposed it was in answer to the Flyer as she had blown one whistle previous to that time.

Q. And it was how far ahead of you?

A. I could not say exactly, but she was on our port bow, a distance I would judge from one thousand to twelve hundred feet.

Q. You thought about the proper position to be answering the Flyer's whistle? A. Yes, sir.

Q. Did you notice the Virginian at that time?

A. I did not.

Q. You did not look back at all?

A. Not at that time, no, sir.

Q. Did you stand right at the door where you went out. A. I stood right abreast the door.

Q. Just looked ahead?

A. No, I watched the other vessel.

Q. How long?

A. Until she got right off our port quarter, and then she blew one more whistle.

Q. Did you look back toward the Virginian then?

A. I could see the other vessel approaching. I could see the head light, but the Strathalbyn was the one I had been watching, and when she blew that whistle, then I went inside.

Q. When she blew this last whistle you mentioned, you supposed she was blowing to the Virginian did you; you knew she was not blowing to you?

A. I certainly knew that.

Q. Did you observe the Virginian's lights?

A. I turned around and went inside again.

Q. The question was, did you observe the Virginian's light at the time? A. I did not, no, sir.

Q. Did you observe it at all while you were outside?

A. I did not.

Q. You did not notice the Virginian at all?

A. No, sir.

Q. How long do you think it was that you were outside. A. I would judge about two minutes.

Q. And during that time you had heard two blasts of the Strathalbyn's whistle? A. Yes, sir.

Q. And she had got off your port quarter by that time? A. Yes, sir.

Q. That is to say she was probably how many points back of you?

A. Well, I was standing about midships and the vessel had just passed, just off the port quarter.

Q. You could not see her stern so as to tell whether the Strathalbyn was abreast of you? A. No, sir.

Q. You saw her headlight? A. Yes, approaching.

Q. Did you see it when she blew this last whistle?

A. I did not, no, sir.

Q. You could not see her at all then when she blew the last whistle?

A. You could see the loom of the vessel in the dark.

Q. Could you see anything else?

A. I did not, no, sir.

Q. How long were you inside, did you sit down?

A. After she blew that and after I went inside I had time to walk across the cabin to my coat. I heard the danger signal and immediately went back right across and out the same door, and had been outside fifteen seconds,—I looked straight aft and it was not fifteen seconds before they came together.

Q. Did you see any lights before they came together? A. No, sir, none except the sparks.

Q. No lights except the sparks?

A. That is all I saw.

Q. You stood there at the same door?

A. The same door, yes, sir.

Q. Now when you went back to the Strathalbyn, as you approached her, did you see any lights?

A. Yes, we could see the starboard green light.

Q. I understood you awhile ago to say that after

you had gone to the Virginian and came back, you saw the starboard light? A. Yes.

Q. And you also saw it as you approached?

A. When we went up head-on to the Virginian, and the Strathalbyn this way (indicating), we could see the Strathalbyn's light.

Q. Were you approaching the Strathalbyn pretty nearly abeam? A. It seemed that way, yes, sir.

Q. And the Virginian was on the other side of her, in the direction of Seattle? A. Yes.

Q. So until you got pretty well past the Strathalbyn you could not see?

A. We did not go past the Strathalbyn. We went up head-on to the Strathalbyn, and the Virginian backed off this way and came ahead.

Q. Didn't you go on from the Strathalbyn some distance to speak to the Virginian?

A. No, sir. The Strathalbyn was lying this way (indicating) and we went around her bow and came up alongside, and as we did that the Virginian came up the same way, and we went head-on to the Virginian.

Q. You did go then some distance to the Virginian to speak to her? A. Yes, sir.

Q. And of course in the darkness you could tell the directions, could you?

A. No, sir, I could not; but I could tell the positions of the vessels as to bow and stern.

Q. How much was she on your port bow; how many points of the compass; that is the Strathalbyn, when you first saw her? A. I would not attempt to say.

Q. Do you know the points of the compass?

A. Yes, sir.

Q. You haven't any idea how much she was on your port bow?

A. I did not pay particular attention to how far she was on our port bow.

Q. Did she seem pretty well ahead?

A. She was about one thousand feet.

Q. I did not mean to ask the distance, but as to the points of the compass. Did she seem pretty much ahead or pretty well off your port bow?

A. She was well off on the port bow.

RE-DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. You said you could distinguish the vessels as they were lying together. About what was the angle that the Strathalbyn and the Virginian were lying as respects each other when the Flyer came up, before they had apparently separated?

A. I should say at an angle like this (illustrating). That is the way it seemed as we approached up this way.

Q. You approached about abeam, across up towards the bow of the Strathalbyn. A. Yes, sir.

Q. And the angle you have illustrated there is a little less than forty-five degrees?

A. That is the way it appeared to me.

MR. HUGHES: I think that is considerably more than forty-five degrees. It looks to me more like sixty.

Q. (By Mr. Hughes) It was pretty near at right angles, as you have shown there?

A. I would not attempt to say, but that is the way they appeared.

(BY MR. HAYDEN.)

Q. Lay them on this paper about the way you think they were? A. Like this. (Indicating.)

Q. Now please hold them and I will draw lines along the sides of them? A. Yes, sir.

(Sketch.)

Q. The arrow heads represent the bows of the vessels? A. Yes, sir.

Q. Will you write which was the Strathalbyn?

A. This was the Strathalbyn, "SA."

Q. And the other,—

A. The Virginian. (Indicating by name.)

Q. Please write your name down here.

A. Yes, sir. (Writes.)

(WHEREUPON said paper sketch was marked Exhibit A for libellant.)

Q. I think I asked you if you could distinguish the loom or load of lumber, or hull of the Strathalbyn, for any distance?

A. When coming back to Tacoma, and went along side, the last time Mr. Burns asked them if we could assist, we were distant about three hundred feet, and we

could distinguish the deck load from the hull, and saw she had a heavy list starboard and down by the head.

Q. What distance would you say you could make out her loom on the night in question?

A. I would not attempt to say what distance I could make it out, but I made it out at about one thousand feet I would judge.

(BY MR. HUGHES.)

Q. When the *Flyer* approached the *Strathalbyn* after the collision, was the *Strathalbyn* swinging?

A. I could not tell whether she was at the time we approached, but shortly after when I was standing on the upper deck with Captain Burns, both vessels seemed to be standing at a stand-still at that time. Shortly after that, in the space of two minutes, the *Virginian* seemed to swing and come outside, and then Captain Burns spoke to the *Strathalbyn* again and asked if they needed assistance, and he could not quite distinguish the answer, and she also came ahead around her bow and then Captain Burns went ahead a little up to the *Virginian*.

Q. And when you say he went ahead, you mean his boat proceeded ahead first and he was not backing; you did not mean to say in what direction he went?

A. Oh, no; he went ahead.

Q. What I mean to ask was whether when the *Flyer* turned around and started back toward the *Strathalbyn*,—you have already said she was approached broad-side,—you saw lights, and from what you saw of the lights did they seem to be changing position?

A. They did not.

Q. She did not appear to be swinging?

A. No, sir, did not appear to be swinging to me.

Q. Do you think you would be able to tell?

A. I could not draw my imaginative powers that far, as to whether I could be able to tell.

Q. Did you ever have any experience in seafaring?

A. Yes, sir.

Q. In running steamships?

A. I have been at sea a good deal; I never ran steamships. My father,—

Q. We do not care about that; that does not mean anything here.

A. It means a good deal to me; my father was a master on sailing and steam vessels a great many years, and I was with him a great deal.

(Witness excused.)

MR. JOHN DANIEL McLEOD, a witness produced on behalf of the libelant, being duly sworn, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. Your full name? A. John Daniel McLeod.

Q. You were third mate on the Virginian, on the night of this collision? A. Yes, sir.

Q. On watch? A. Yes, sir.

Q. On the bridge? A. On the bridge.

Q. You are the same John D. McLeod who testified before the United States Inspectors in Seattle, on January 17th of this year? A. Yes, sir.

Q. Did you see any lights at all on the Strathalbyn before the collision? A. I saw a white light.

Q. Masthead light?

A. I suppose it was; it was elevated. I could not see the hull of the ship.

Q. Just answer the questions. I move to strike that. Did you see her red light, that is the Strathalbyn's red light just after you came into collision?

A. Just after, yes.

Q. That is all.

MR. HUGHES: As this witness is our third officer, and we will expect to call him, we will not avail ourselves of the ordinary rights of cross examination, but will expect to examine the witness as our witness at the proper time. However, at this time I will ask him a couple of questions as bearing directly upon the testimony here given.

Q. When with reference to the collision did you see the white light on the Strathalbyn, or the vessel ahead, which you have spoken of?

A. We were just on top of her almost, before the collision, before I saw it.

Q. Had you been on the bridge for some time prior to that? A. I had been there all the time.

Q. Had you been looking ahead for a light of a vessel? A. We were looking very carefully.

MR. HAYDEN: That is objected to as not proper cross examination.

Q. Had you heard a blast,— (interrupted).

MR. HAYDEN: We object as not proper cross examination.

Q. Prior to the time when you saw the white light you have spoken of, what whistles had you heard?

MR. HAYDEN: That is objected to as not proper cross examination. If you want to make this witness your own witness, I will consent to it, and reserve the right to cross examine.

MR. HUGHES: You cannot attempt to establish a misleading fact without permitting cross examination.

Q. I want to know whether you had heard any passing signal from a vessel ahead, and had looked to see if you could locate a vessel or lights, prior to the collision?

MR. HAYDEN: We make the same objection.

A. Yes, sir.

Q. How long had you been looking to locate the lights of a vessel ahead, before the collision?

A. It was about four minutes. We stopped as soon as we heard the first whistle.

Q. As you were looking ahead, how long before actual contact of the vessels was it you saw any white light ahead on the vessel that collided with you?

MR. HAYDEN: We make the same objection.

A. As I said, we were right on top, just immediately before the collision, before I saw the light.

Q. Did you see it also after the collision?

A. Yes, sir.

Q. When was it that you saw a red light?

A. After the collision.

Q. Where was your ship with reference to the Strathalbyn, when you saw the Strathalbyn's red light.

MR. HAYDEN: We make the same objection.

A. She seemed to swing alongside of us, and I saw the red light; it was after the collision.

Q. How were you looking at her; were you looking opposite her beam or her bow; what position was the

Strathalbyn from the Virginian when you saw her red light?

MR. HAYDEN: Same objection.

A. I saw the red light a little abaft of the fore-rigging of the Strathalbyn.

Q. About how far away were you?

A. Right along side; before we backed away.

Q. A little abaft the rigging; you saw her abaft the rigging of the Virginian?

A. Our own forerigging, yes.

Q. About how close to her?

MR. HAYDEN: We make the same objection.

A. Right close together.

Q. What kind of a light was it?

MR. HAYDEN: Same objection.

A. It was a red light.

Q. Was it bright or dim?

MR. HAYDEN: The same objection.

A. It was not very bright, but it was a light we ought— (interrupted).

Q. Bright enough to be seen?

A. You could see it; she was right alongside; I could not say how far you could see it.

Q. Had you seen that light at any time prior to the collision?

A. No, I never saw any side lights at all.

RE-DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. Exercising the right to cross examine so far as you have made the witness your own.

MR. HUGHES: We will produce this witness, and assure you we will put him on, and you can have a full opportunity to cross examine.

MR. HAYDEN: Q. I will ask you a couple of questions. You started to say the red light was a light that ought to have,— what were you going to say, in connection with Mr. Hughes' question as to what kind of a light it was. What were you going to say to finish that?

A. Well it appeared to me a light that you could see a little distance without being obscured.

(Witness excused.)

MR. JOE MIGUEL, a witness produced in behalf of the libelant, being duly sworn, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. What is your full name? A. Joe Miguel.

Q. You were quartermaster on the lookout of the Virginian on the night the Virginian collided with the Strathalbyn? A. Yes, sir.

Q. And you are the same Joe Miguel who testified before the United States Inspectors of Hulls and Boilers in Seattle, January 17th, 1912? A. Yes, sir.

Q. You were on the forecastle head of the Virginian at the time of this collision. A. Yes, sir.

Q. You saw two lights on board the Strathalbyn just before she struck you? A. Just after she struck us.

Q. What light did you see?

A. I could see a white light and a red light.

Q. That was immediately after you struck?

A. Yes, sir.

Q. That is all.

MR. HUGHES: As we expect to produce this witness, I will not take time to cross examine at this time.

(Witness excused.)

Whereupon the hearing was adjourned.

(Filed Feb. 9, 1912.)

DEPOSITIONS OF BYRON CAWLEY ET AL.

BE IT REMEMBERED, that on January 31, 1912, at Room No. 646 Central Building, Seattle, Washington, before me, Earl E. Richards, a Notary Public in and for the State of Washington, appeared Mr. W. H. Hayden (of Messrs. Huffer, Hayden & Hamilton), proctor for libelant, Mr. Laurence Bogle (of Messrs. Bogle, Graves, Merritt & Bogle), proctor for respondent, claimant and cross-libelant, and Mr. E. C. Hughes (of Messrs. Hughes, McMicken, Dovell & Ramsey), proctor for claimant and cross-libelant;

WHEREUPON the following proceedings were had:

BYRON CAWLEY, produced as a witness on behalf of LIBELLANTS, having been first duly sworn by the Notary to tell the truth, the whole truth and nothing but the truth, testified as follows:

Q. (MR. HAYDEN) Mr. Cawley, what is your name? A. Byron Cawley.

Q. How old are you?

A. I was twenty-one in April, 7th of April.

Q. What was your business on the 12th day of January, 1912?

A. Well, I don't remember just the date, but if that was the day the collision came off I was working at Foss's.

Q. Foss's Boat House in the city of Tacoma?

A. Yes, sir.

Q. What were you doing on that day?

A. Why, I was running the launch.

Q. What launch were you running?

A. Well, I ran the "Lathea" during the day time and then at night, why, I was off until the time of the collision; then I went out on No. 10, "Foss No. 10."

Q. About what time did you leave Foss's Boat House to go out to the "Strathalbyn"?

A. Well, it must have been about nine o'clock, somewhere in there; I would not say for sure.

Q. Who was with you in the launch, if you know?

A. Well, it was Clifford Oeff and George Rich and two other fellows.

Q. And two other fellows. The Foss Boat House is at the Commercial Dock, isn't it? A. Yes.

Q. And you went from there, and where did you first see the "Strathalbyn" after leaving Foss's Boat House?

A. Well, we ran out to Dash Point, then we left Dash Point about half or three quarters of a mile before we seen her.

Q. And then where did you see her?

A. Well, she was—when we first got sight of her she must have been pretty near a mile this side of Robinson's Point.

Q. And what did you see?

A. Well, we saw her lights, was all.

Q. What lights?

A. See her masthead light and her side lights.

Q. What side lights?

A. Well, the red and green light.

Q. How far would she be away from you when you first saw those lights, would you judge?

A. A mile and a half.

Q. Did you go aboard of her at that time?

A. No, but we put a man on board.

Q. Put a man on board? A. Yes.

Q. Then what did you do?

A. Well, we ran around the end of the stern and the steamer and came up on the starboard side.

Q. On the starboard side?

A. Yes, kept alongside of her for quite a ways.

Q. Well, what did you do?

A. Well, the captain—pilot—I don't know who it was—told us to go in and put a line on the east side of the St. Paul Dock, they were going to beach her there, and we went to town and put a light there and left the man on the dock.

Q. Got a man off the "Strathalbyn"? A. No.

Q. Or was it one of the men with the—

A. (Interrupting) With the "Foss."

Q. What was done when you put Clifford Oeff on the dock? A. Went back to the steamer.

Q. Where did you meet her again?

A. Just off of Browns Point.

Q. What did you do then?

Q. We kept alongside of her until—well, for about a half a mile, then he told us to go in and take the man off from the dock, that he was going to take her to the buoy.

Q. Did you go aboard of her the second time you went out? A. No.

Q. State what you did after he told you to take the man off of the dock?

A. We went and took the man off of the dock and went back to the steamer, and he told us to stand by so that we could put a line on the buoy for him.

Q. Did you go aboard the steamer at all?

A. I did after they were tied up to the buoy.

Q. Did you see the red and masthead light burning, or green light burning, at these different times you approached the steamer? A. Yes, I saw it.

Q. When you were on board the steamer did you see the red light?

A. Well, we tied the launch up—when I boarded the steamer we tied the launch up to the life boat that was hanging from the side.

Q. What side was the life boat hanging from?

A. On the port side.

Q. About where on the "Strathalbyn"?

A. It was a little forward of amidships.

Q. Was it forward or aft of the red light?

A. It was forward of the red light.

Q. Did you have occasion to look at your launch at all?

A. Why, as I was—one of the sailors told us he would take us down in the forecabin, where they got rammed—we wanted to see where she got hit; then I walked up on the port side of the cargo, after we got up on the cargo, and I looked over the side, see the boat was not fastened under the lifeboat—the launch—and I looked over the side and I could see the red light.

Q. Where were you on the "Strathalbyn" when you looked over the side?

A. Well, I was about 40, 35 or 40 feet forward on the cargo—on the cargo.

Q. On the cargo and forward of the house?

A. Yes.

Q. Forward of the red light? A. Yes.

Q. What did you do after that?

A. Well, we went down in the forecabin where the men slept and came back again.

Q. When did you leave the "Strathalbyn"?

A. Well, I don't know. I think it was about 2 o'clock.

Q. Two o'clock in the morning?

A. Something like that.

Q. I will ask you, Mr. Cawley, if you are sure that the boat was swung out forward or aft of the red light?

A. Well, I would not say just to that. I didn't pay much attention to where the boat was swung over the side. It was somewhere right close.

Q. Somewhere right near?

A. It was right—it was not very far from the line see, and when we tied up to him I think there was a rope ladder over the side, and when I got forward I could see

the red light when I looked down to look at the launch.

CROSS EXAMINATION

Q. (MR. HUGHES) How old do you say you are?

A. Twenty-one.

Q. How long have you lived in Tacoma?

A. Oh, I don't know just; lived there in Tacoma about fifteen years.

Q. What business have you done, what work have you done?

A. I have been running a launch.

Q. How long?

A. About—well, I have been in the business about six years.

Q. Running launch?

A. Yes. I worked in a machine shop for a while.

Q. Running launch for Foss?

A. No, not for Foss all the time. I run a launch for Foss.

Q. What were you doing on this boat that night when you went out to the "Strathalbyn"?

A. Why, I was with the regular engineer and Clifford Oeff is the man that runs the boat, but I was with him that night and—

Q. (Interrupting) Were you doing anything?

A. Yes, I was helping him with the engine.

Q. Helping him with the engine. Did he have any bother with his engine? A. No.

Q. Why did you have to help him?

A. Well, I was filling the oil-cups for him and helping him around the engine a little.

Q. And talking with him, I suppose? A. Yes.

Q. You just went along to visit with him, didn't you?

A. No, I went along to see the steamer mostly. I heard she got hit.

Q. Did you have any conversation with these two men that were aboard?

A. Well, I had conversation with one of them, I got to talking about—

Q. (Interrupting) I am not asking what the conversation was, I am asking whether you talked with him, whether you engaged in conversation with him?

A. No only to speak to him once in a while.

Q. Do you know who they were?

A. One of them was one of the men that loaded the steamer.

Q. What was his name? A. I don't know.

Q. Do you know who the other one was?

A. No, I don't.

Q. Did you hear them employ the boat to take them out? A. Yes.

Q. What time did you say it was when you started?

A. It must have been somewheres around nine o'clock.

Q. How long did it take you to go out there?

A. About maybe forty-five or fifty minutes.

Q. When did you first see Robinson Point light, or didn't you see it at all?

A. I didn't pay no attention to Robinson Point light. I don't remember seeing it.

Q. Didn't pay any attention to it at all?

A. After we did go around the stern of the steamer I seen the light.

Q. You did?

A. Yes, because we were not very far from it.

Q. Who called your attention first to seeing any light that you took to be a ship ahead of you?

A. I think it was the stevedore man that loaded the steamer.

Q. Who called your attention to it?

A. I think it was him—one of the fellows.

Q. Did he call your attention to what the lights were?

A. Well, we first seen the masthead light, was the first one that I seen, called my attention to that; we didn't think there was a steamer out there when we left Dash Point, and then he seen the masthead light or white light and it was afterwards the masthead light.

Q. Did you see it? A. Yes, sir.

Q. Which way was it from you when you saw it?

A. Well, it was almost directly ahead of us.

Q. It was almost directly ahead of you? A. Yes.

Q. Was it on either bow at all?

A. Well, she might have been a little to one side, but then we could not tell until we got up close to her.

Q. You could tell from the direction of the light whether it was on one side of your bow or on the other side of your bow, couldn't you?

A. Well, it was just along straight ahead, as far as I could say.

Q. You did not pay much attention to it, did you, as a matter of fact? A. Not much.

Q. What? A. Not much.

Q. Where were you—did you pay any attention to that—when you first saw her?

A. Well, I remember leaving Dash Point we were—well, we were looking around at Dash Point—I went out on the stern of the launch at Dash Point and we ran about three quarters of a mile.

Q. What makes you think it was three quarters of a mile? You were engaged in conversation, you were not paying any attention to the distance from the "Strathalbyn", were you?

A. No, but then we could see land from where we were and we could judge just about where we were, how far off.

Q. As you saw this light did you look back at Dash Point light to see how far you were away from that?

A. There was no lights on Dash Point, only the houses there.

Q. Did you look back to see?

A. No, I glanced back, was all.

Q. You didn't have any reason for trying to locate your position there, how far you were from Dash Point when you first had your attention called to this light—white light? A. No.

Q. Your answer is "No." He can't take a nod.

A. No.

Q. Now, it is only a guess, then, how far the ship was away from you when you first saw what you took to be a masthead light, white light, is it? A. No.

Q. It is not a guess?

A. No, because I could tell that it was as much as a mile and a half, because we ran a good—well, eight minutes anyhow.

Q. How do you know you ran eight minutes, did you look at your watch? A. No, but then—

Q. (Interrupting) You are guessing at that, aren't you? Be frank about it, are you guessing at that?

A. Yes, I am guessing at that.

Q. Now, did you pass or see any other boats while you were going out to the "Strathalbyn"?

A. Yes, we passed one this side of—before we got to Browns Point.

Q. You passed one. That was then between you and the "Strathalbyn" when you claim to have first seen a white light ahead of you?

A. No, that was before we got to Browns Point. You have to round Browns Point and Dash Point before—

Q. (Interrupting) Dash Point is this side of Browns Point, is it? A. Yes.

Q. Browns Point, in other words, is nearer Tacoma than Dash Point? A. Yes.

Q. Did you see any other boats either going the same direction you did or coming from towards Seattle, after leaving or passing Dash Point and before you met the "Strathalbyn"? A. Not that I remember.

Q. You are not sure that you did not?

A. I am not sure.

Q. Who called your attention to either the red or the green light? A. Nobody.

Q. Nobody mentioned seeing the red or the green light at all? A. No.

Q. Well, which light did you first see, the red or the green? A. I first seen the red light?

Q. Are you sure that was not the red light at Robinsons Point? A. Yes, I am sure.

Q. Why are you sure? You said you did not see the red light at Robinsons Point or pay any attention to it until you got behind the "Strathalbyn"?

A. Well, from where we were lying the steamer was between us and the red light at Robinson, the way we were approaching the steamer.

Q. Then you must have been pretty close to the steamer for the steamer to cut out the Robinson light?

A. No, sir.

Q. Couldn't you see Robinson light over that steamer or by the side of it? Do you mean to say that steamer would cut off your view at all times of Robinson light until you got up close to it?

A. Well, the launch is pretty low and I could not see it, at least I don't remember seeing it.

Q. When was it you saw what you took to be the red light, before you saw the green light?

A. After we got very close to the steamer he crossed over—he didn't cross over, but he got directly ahead of her, and I went out and see the green light then, I went out on deck.

Q. When you overtook the "Strathalbyn", how near was she to Robinson Point?

A. Well, she must have been a mile this side—or towards Tacoma.

Q. About a mile on the Tacoma side of Robinson Point? A. Yes.

Q. When you overtook her? A. Yes.

Q. And she was traveling towards Tacoma, was she? A. Yes.

Q. Now, you came back to Tacoma and then returned again and met the "Strathalbyn"? A. Yes.

Q. This time you met her off Browns Point?

A. Yes. I would not say just exactly where we met her, but it was somewhere right close to Browns Point.

Q. Didn't you see her lights before you got up to her that time? A. Yes.

Q. How long?

A. Well, I didn't pay no attention, because I was down afooling with the engine then, and Clifford Oeff was on the dock at the St. Paul Mills. I was running the engine at that time, but I went out once and noticed her lights, and we were close to her then.

Q. You didn't see her lights until you got close to her the second time?

A. No, because I was inside of the boat.

Q. The boat closed in, is it?

A. Well, it has got a cabin and glass forward around the forward part of the boat, but around the side it is canvas.

Q. Canvas on the side and glass in front of where you and Oeff were at the engine? A. Yes.

Q. Now, you went back again. Then when the boat came in you went on board of the "Strathalbyn"?

A. Yes, sir.

Q. When you went aboard you said you went up forward of her deck load, her front deck load? A. Yes.

Q. Did you cross over it?

A. Well, I followed along the port side and then on over.

Q. Well, you followed along the port side of the ship until you came to the forward deck load, then you climbed up and went over the top of the deck load, did you? A. Yes, sir.

Q. And how did you get up there?

A. Well, there is a pair of steps right forward the—or right under the bridge, I think, I won't say just to that, because I didn't pay much attention to it.

Q. There are steps running up to the deck load?

A. Yes.

Q. Or up to the bridge?

A. No, there is a pair of steps up to the deck load—to the top of the deck load.

Q. You didn't step across from the bridge to the deck load?

A. No, I was on the deck and then went on top of her deck load.

Q. About how high was that deck load?

A. It must have been—

MR. HAYDEN: (Interrupting) I object to that as not proper cross examination.

Q. (Mr. Hughes) Go on.

Q. It must have been six feet.

Q. You think as much as six feet, do you?

A. Yes, maybe more. It was not very much more, I don't think—six or eight feet.

Q. When you got across the deck load did you go down on the other side, on the forecastle head?

A. Yes, I went down on the forecastle.

Q. How did you get down there?

A. Well, we went down a pair of steps.

Q. How many steps did you go down to get to the forecastle deck?

A. Well, I don't know, I think it was about twelve feet.

Q. About twelve feet. Was the deck load practically level as you walked across it?

MR. HAYDEN: Same objection, as not proper cross examination.

A. The steamer had a big list astarboard.

Q. (Mr. Hughes) No, aside from that I mean?

A. Well, I should judge it would have been level if the steamer hadn't had the list.

Q. The life boat on the port side you say was hanging over the side of the ship, was it? A. Yes.

Q. Was it in its davits?

A. Yes, it was hung down from the davits.

Q. Had it been dropped down or was it in its regular position for sailing?

A. No, it had been dropped down over the side aways.

Q. Over the side. And you looked down under that to look at your launch, did you? A. Yes sir.

Q. You stepped over to the side of the ship and looked down at your launch? A. Yes.

Q. What was your purpose in doing that?

A. I wanted to see that the launch did not swing under the life boat and knock her lights off. Her forward light is put up on a little box and it just swung under the life boat.

Q. You could see her lights, the lights of your launch were clear of the life boat, were they? A. Yes.

RE-DIRECT EXAMINATION.

Q. (MR. HAYDEN.) Do you know the name of that boat that you passed off Browns Point—the other boat?

A. Well, I don't know, but if I—I think it was either the "Darring" or the "Dart", one of Captain McDonald's boats.

Q. Did you mean that the deck load that you saw and which is referred to as being six feet, was that six feet from the deck or six feet from the rail of the

"Strathalbyn", six feet above the deck or six feet above the rail?

A. Well, when I got aboard the steamer, you see, there was a rail, a bulwarks, you see; looked over and the boat was—well, directly beneath me, the life boat, and you had to go down a rope ladder there, and then I could look up and see the top of the deck load. From where I was there was—I guess it was maybe two feet above my head anyway.

Q. You say you went down 12 feet forward to go into the forecastle?

A. Well, I would not say it was 12 feet, but something like that.

Q. Something like that. And your deck load was about the same height on the after part of the forward deck load as it was on the forward part of the deck load, do you remember?

MR. HUGHES: I suggest it is not well to lead this witness.

MR. HAYDEN: I just ask him if he remembers?

A. Well, I don't remember.

Q. (MR. HAYDEN) Have you been doing a good deal of sailing around in these launches?

A. Yes, quite a bit.

Q. How long have you been doing that?

A. Five or six years.

Q. Accustomed to distances they run and distances you see on the water? A. Yes.

RE-CROSS EXAMINATION.

Q. (MR. HUGHES) As I understand you, when you went out to the "Strathalbyn" you don't recall passing any other boat coming to Tacoma, seeing the lights of any other boat that you passed?

A. Well, we passed that one just this side or just on the other side of Browns Point.

Q. And that you say was the "Darring" or the "Dart"— A. I think it was.

Q. The "Darring" or the "Dart"?

A. When we were coming in from the steamer, why, we passed a big boat going out to her; one of Captain Olson's boats was on the way out to meet her.

Q. You did not pass the "Virginian" that night?

A. No. The "Virginian" was in at the dock before we left.

Q. Oh, the "Virginian" was in the dock before you left? A. Yes.

Q. You remember seeing her at the dock before you left, do you?

A. She was just landing when we left; she hadn't been all tied up yet.

Q. What is the speed of that little launch that you were on that night?

A. She makes about—they claim she makes pretty close to ten miles an hour, between nine and a half and ten miles an hour.

Q. Well, were you running full speed that night?

A. Yes, we ran full speed.

Q. All the time? A. Yes.

(Witness excused.)

JOHN BROWN, produced as a witness on behalf of libellant, having been first duly sworn by the notary to tell the truth, the whole truth and nothing but the truth, testified as follows:

Q. (MR. HAYDEN) What is your name?

A. John Brown.

Q. Were you aboard the "Strathalbyn" the night of the collision with the "Virginian"? A. Yes sir.

Q. What was your business on her? A. Fireman.

Q. Are you with her still? A. No, sir.

Q. When did you leave her? A. Victoria.

Q. Where were you when the collision occurred?

A. My headquarters in the forecastle?

Q. What? A. My headquarters in the forecastle.

Q. Did you hear any whistles that night?

A. Yes sir, I did.

Q. State what you heard?

A. I heard one whistle and then I heard another one afterwards, and shortly after I heard three.

Q. From what steamer were those whistles?

A. From the "Strathalbyn".

Q. How far apart would you say those whistles were?

A. Well, might be a minute, one after the other, sir.

Q. How long was it after you heard these three blasts of the "Strathalbyn" before the vessels struck?

A. Very shortly afterwards; it might have been a half a minute, thirty or forty seconds; might have been a minute; for she struck directly after she blowed the whistle.

Q. What did you do after they struck?

A. I went out as quick as possible.

Q. What happened to the forecandle when they struck?

A. Tore the whole side of it out and everybody was making for a hole to get out at.

Q. Did you get out?

A. I got out; I was the first one out of there, sir.

Q. What did you do as soon as you came out?

A. I ran up on top of the deck load, over to the port side, and I heard the captain singing out to get the boats ready. I jumped up on the bridge and started to clear the after fall out of the boat.

Q. When you were going from the forecandle head aft did you see any lights? A. Yes sir.

Q. What lights did you see?

A. I seen the red light and the masthead light.

Q. How did they appear to be burning, to you?

A. Very bright, sir.

Q. What did you do with the boats?

A. Lowered them, sir. When we got through on that one, we lowered the other one abaft the forecandle on the port side.

Q. What side of the bridge did you get up on?

A. Port side, sir.

Q. Off the lumber? A. Yes sir.

Q. Was that when you saw the red light?

A. Yes sir. I could not help seeing it. I walked over to the port side. I could see that light. It shines right in your eyes.

CROSS EXAMINATION.

Q. (MR. HUGHES) You didn't hear any danger signal then, did you? A. Sir?

Q. You didn't hear any danger signal, did you?

A. No sir, I was too busy with the boats afterwards. I heard one whistle—

Q. (Interrupting) Before the collision?

A. Before the collision I heard one whistle, and then another one, and then three.

Q. One whistle and then another one from some other ship?

A. No, no, from the same, from our vessel, and I didn't hear any whistle from any other ship at all.

Q. You didn't hear your ship then give a whistle to the "Flyer" and the "Flyer" answered you?

A. No, I did not, sir.

Q. Anything to prevent your hearing that?

A. Anything to prevent me?

Q. Yes.

A. No sir; I was down in the forecastle. I was out about a quarter of an hour ahead of that time before the collision, I was coming on watch at the time.

Q. Did you see the "Flyer"?

A. I saw the "Flyer," yes sir.

Q. You didn't hear the "Flyer" give any whistle to your ship?

A. That was after the collision I seen the "Flyer."

Q. You didn't see the "Flyer" before the collision?

A. No sir, I didn't.

Q. You heard three blasts about a minute apart, you think? A. Yes sir.

Q. And before that you had heard two?

A. I heard two, one and then another one very shortly afterwards.

Q. You took that for a starboard whistle or port whistle? A. No, it was a port whistle, sir.

Q. Two whistles, you understand two whistles is a port whistle, do you?

A. Yes, you bet you. I have been to sea long enough to know that.

Q. What do you understand one whistle to be?

A. Passing on the port bow, sir—port side.

Q. What do you understand the two whistles to be?

A. Starboard.

Q. Starboard the helm?

A. No, port your helm—or starboard your helm.

Q. Yes? A. Passing on the starboard side.

Q. How long had these two whistles that you say would be a starboard the helm been given upon your ship before you heard these three whistles?

A. Just about a minute apart.

Q. About a minute that those two whistles were given before the first one of these three whistles?

A. One whistle first and the very near a minute between it and then they blowed another whistle, and then very shortly after that he blowed the other three, and then I knew there was something wrong, so I was prepared, if anything should happen, to get out. I just called that young fellow over—he was on the other side—to get out of his bunk.

Q. What did you say you did—you went up on the cargo, on the lumber cargo? A. Yes.

Q. Did you get out before she struck?

A. I was out fifteen minutes before she struck, and then I went down below again.

Q. Down below in the forecandle? A. Yes.

Q. Now, after you heard these three whistles did you get out before—

A. (Interrupting) No.

Q. (Continuing)—the ship struck?

A. No, no.

Q. Got out after it struck? A. Got out afterwards.

Q. And then you climbed up over the cargo, did you?

A. Yes, went up on it and climbed over the cargo, walked over the deckload.

Q. How could you get up there from your forecandle deck? A. A little stair there.

Q. How high? A. Well, I should judge about—

Q. (Interrupting) From the forecandle deck?

A. Well, I should judge about twelve or thirteen feet high.

Q. From the forecandle deck?

A. From the forecandle deck.

Q. How much is the forecandle deck below the deck on which—above the deck on which the cargo was?

A. The deck is just level with the main deck, it is only one deck there and then you have the 'tween decks.

Q. The forecandle deck is not elevated then?

A. Well, it is a little higher—

Q. (Interrupting) The fore-castle head where your cabin was? A. Well, it is right on top of the deck.

Q. Right on top of the deck?

A. Top of the deck where the lumber was piled on.

Q. When you came out of there—of your cabin, how far did you go back before you came to this cargo of lumber? A. Well, about fifteen feet.

Q. Fifteen feet. How was this cargo of lumber held there?

A. Well, kind of squeezed together a little bit.

Q. Stanchions there?

A. No sir, not there, not down below.

Q. But on the side you were on, the cargo loaded up there —

A. There were stanchions on the side inside of the rail, to hold it there.

Q. Inside of the rail? How high were they?

A. Well, I should judge about three or four feet higher than the lumber was. Not much. Some, I think, was shorter and some I think was a little longer.

Q. Was there a ladder or steps there?

A. Just steps built out of lumber. When they were putting lumber in they made some kind of steps to go up.

Q. Do you know how many of those you climbed up?

A. No sir, I don't know. It might have been nine, might have been ten.

Q. Might have been more or less, for that matter?

A. More or less.

Q. Then you walked across the top of that cargo

A. Yes sir.

Q. How did you get onto the bridge?

A. Climbed up on top of it.

Q. Did you step across or use steps there?

A. No, there was steps to go down on the fidley deck there.

Q. How near did this cargo come to the bridge deck?

A. There is a place there on each side, on the port side and on the starboard side, where you can climb up on, a place there to—

Q. (Interrupting) You walked on the top of this cargo?

A. Walked over to the port side, and when I heard the captain singing out to get the boats ready, the lumber was about that far below the lower bridge.

Q. You climbed up on the lower bridge?

A. I climbed up on the lower bridge.

Q. How far did you have to step across there, how much space was there between the lumber and the bridge deck?

A. Oh, there was not much space. I didn't notice how much space there was. I know I could climb up there.

Q. Three or four feet?

A. No, it was not as much as that.

Q. How close did it come to the bridge deck?

A. Well, I don't know how close it was, I never know that.

Q. You just stepped across there, did you?

A. No, I didn't step across, I climbed over.

Q. Was there any railing there?

A. Yes, there is a rail there.

Q. You had to climb over that railing?

A. Yes, I had to climb over there to get at the boat.

Q. How high was that railing above the bridge deck? A. About three feet high, I guess.

Q. And that is what you climbed over, is it?

A. Yes sir.

Q. Which side did you walk on as you walked across that cargo of lumber?

A. I came from the starboard side—kind of steps where you come up—it is a little bit more on the starboard, it is not quite amidships, it is more on starboard than port, so I crossed from the starboard side to the port.

Q. You got on the bridge and then crossed over on the bridge?

A. No, I didn't. I walked from starboard to port aft to the port boat, I stayed on the same side and then walked across.

Q. Then when you came out of the forecastle cabin—

A. (Interrupting) Yes.

Q. (Continuing)—you got up on top of the cargo of lumber. A. Yes, I did.

Q. And then you walked back on the starboard side of your ship, did you?

A. No, on the port side.

Q. I understood you to say you walked back on the starboard.

A. I crossed from here—here is starboard and here is port—I crossed from here over to the port side.

Q. From where did you cross over to the port side?

A. Walking up.

Q. Oh, you walked diagonally across, do you mean, to the port side? A. Yes sir.

Q. You walked, you got up on the starboard side, and as you walked over to the lumber you walked—

A. (Interrupting) Going across, walked very near over—

Q. (Interrupting) So you walked past the rigging, did you? A. Yes sir.

Q. And then climbed up on the bridge rail onto the bridge deck? A. Yes.

Q. And then walked back on the port side on the bridge deck—

A. (Interrupting) I walked aft on the port side. That was aft already.

Q. Where were those boats?

A. The boats were right underneath the bridge.

Q. Right underneath the bridge?

A. Yes, it was right on the port side, right alongside of the bridge, and one on the other side, too.

Q. Extend in front of the bridge at all?

A. No, not in front of the bridge; right alongside of the bridge. The bridge is here and the boats, one of them on each side of the bridge. The starboard one is a little abaft, and so is the port, but port—the starboard is a little—I should say a little further aft than the port one.

Q. Do they hang above or below the light?

A. They hang above the light; they swung in, you know, on deck, they were in the—

Q. (Interrupting) The lights were where, on the foot of the bridge or right at the end of the bridge?

A. The light was a little bit abaft the bridge—a little bit abaft.

Q. A light on the port side?

A. Not abaft the whole bridge, but you know where the bridge started, you know where the light box is.

Q. A little back of about the center of the bridge, then? A. Yes.

Q. On the port side? A. Yes.

Q. And did you say the boat hung right over the light or back of it?

A. No, the boat didn't hang any place, the boat was on top.

Q. Well, it was in the davits?

A. The boat was landed on deck, standing—

Q. (Interrupting) When you got—

A. (Interrupting) The boat is on the aft part of the light altogether.

Q. Back of the light? A. Just back of the light.

Q. So that you walked right back and went to work to get the boats out? A. Yes.

Q. And did not pay any attention to the lights there? A. I paid attention when I walked out.

Q. Why, how did you come to do that?

A. I generally do because I am old enough to see that it is the first thing I will look at, is the lights.

Q. It was all excitement there at that time, wasn't it?

A. Not such excitement—I had time enough to look at the light, I could not help looking at it, the reflection came right down on deck, of the masthead light, and as soon as I got across over to the port side I could see the port light right there.

Q. It was right at your feet, was it?

A. You bet you. It didn't take me long to get out of there.

Q. You remember looking down at it, do you?

A. I remember looking at the light.

Q. How much was it below the level of your shoes?

A. Oh, the light?

Q. Yes. A. The light was above the cargo.

Q. I am talking about when you stood on the bridge deck. A. Well—

Q. (Interrupting) I am talking about that port light.

A. Yes. Well, that was—it was above the bridge.

Q. How much above?

A. I don't know, I never measured that; but I know it was above.

Q. How much is it inside of the ship's line?

MR. HAYDEN: Oh, I object to that as not proper cross examination.

MR. HUGHES: You think it is improper, do you?

Q. (MR. HUGHES) Go on, answer it.

A. Inside of the rail?

Q. Yes.

A. Well, I should judge it is outside of the rail.

Q. Do you know about that?

A. It ought to be a little bit outside of the rail.

Q. Yes, but I am asking you how it was on that ship.

A. Well, you asked me if the light was burning bright, and I know.

Q. I am asking you where that light was on the ship, if it was inside or outside of the rail?

A. I know there was one on the port side and one on the starboard side. I don't know how far it was in or outside.

Q. Did you have anything to do with lighting those lights? A. Sir?

Q. Did you have anything to do with lighting them?

A. No sir.

Q. Or putting them up, taking them down?

A. No sir, nothing at all.

Q. Did you notice the masthead light before that time? A. Yes, I did, sir.

Q. Where was it?

A. It was burning bright up in the mast, where it belonged.

Q. How?

A. It was up on the mast where it belonged.

Q. Don't you have an electric light up there?

A. Yes. It was just below that.

Q. Was the electric light not used that night?

A. No, not that I know of.

Q. That is what I want to get at. Where was this put up with reference to the electric light?

A. The dynamo was on the bum, I suppose.

Q. But where was this light with reference to that electric masthead light?

A. In the place where it belongs, I suppose.

Q. It could not be in the place where the electric light should be, would it?

A. It was just below that.

Q. Well, how much below it?

A. Well, I should judge about a foot, two blocks up against the other one.

Q. Pulled up there by a block underneath the fore-stays?

A. A single halyard right up on the fore part of the mast.

Q. Was that pulled up there right under the fore-stays?

A. I don't know, the halyard—it was made fast there, I know the light was there.

Q. Did you have any forestays there?

A. I guess they have on any ship.

Q. Did you on that ship?

A. I don't know, I never looked at it. I came out after the collision. I didn't notice there was any stays at all there. I know the light was there. I guess they must have caught it when the collision, because it was right on the bow, the bow was taken off of her.

Q. How tall are you?

A. About five foot eight and a half.

Q. Will you look at this picture or photograph. Do you see your picture there (handing photograph to witness)? A. No, I don't.

Q. Isn't that your picture—the man with the mustache there? A. Where?

Q. Right here (indicating).

A. No, that is the boatswain. That is the biggest fellow in the ship. That is the biggest man in the ship, sir. And that is one of the quartermasters, and that is

the second mate and that is that man sitting down there and that is a steward and that is another—

Q. (Interrupting) Never mind.

A. I was not long aboard, but still I know them.

Q. You say this man with the cap and mustache is the boatswain?

A. Yes, that is the boatswain, sir—that man there.

MR. HAYDEN: Do you want to put that picture in evidence now so that the court will know what you are referring to?

MR. HUGHES: I thought it was his picture—the man with the mustache.

MR. HAYDEN: I move to strike the reference to picture from the record.

RE-DIRECT EXAMINATION.

Q. (MR. HAYDEN) When you spoke about the two whistles that you heard meaning go to port, you meant that those two whistles were given at intervals?

A. Yes sir.

Q. And indicated a port passage; is that it?

A. That is what I meant.

Q. And you had to step up from the deckload of lumber onto the bridge deck?

MR. HUGHES: Oh, well, wait a minute.

A. Yes sir.

MR. HAYDEN: That is all.

MR. HUGHES: I move that the question and answer be stricken out because it was wilfully leading, this witness particularly.

Q. (MR. HAYDEN) Did you or did you not have to step up onto the lumber to get onto the bridge deck where the light was burning? A. Yes sir, I had to.

(Witness excused.)

TURSTEN LUNDBERG, produced as a witness on behalf of LIBELLANT, having been first duly sworn by the Notary to tell the truth, the whole truth and nothing but the truth, testified as follows:

Q. (MR. HAYDEN) What is your name, Mr. Lundberg? A. Tursten Lundberg.

Q. How old are you? A. Twenty-five, sir.

Q. Were you on the "Strathalbyn" on the night of the collision with the "Virginian"? A. I was, sir.

Q. Where were you at the time of the collision?

A. I was down in fireman's forecandle.

Q. Are you with the "Strathalbyn" now?

A. No sir.

Q. You have left her? A. Yes sir.

Q. After the collision what did you do?

A. I went up on deck as soon as possible.

Q. And where did you go?

A. I went up on the port side and followed the port side over until I came to the bridge.

Q. What did you do after you came to the bridge?

A. The captain sang out to lower boats clear.

Q. Now, going back to the time you came up out of the forecandle, how did you get out of there?

A. Oh, I came out there pretty quick.

Q. But how did you get up onto the deckload of lumber.

A. Oh, I had to pass a little alley between the lumber, on steps.

Q. That alleyway between the firemen's quarters and the sailors' quarters in the forecandle? A. Yes.

Q. And these steps are at the mouth of this alley here? A. Yes sir.

Q. And you went up these steps onto the lumber; is that it? A. Yes sir.

Q. When you came up on the lumber where did you go? A. I went up—

Q. (Interrupting) How did you go up there, which way did you take your course?

A. I went right on the port side, the high side.

Q. Did you or did you not observe any lights on the "Strathalbyn" at that time?

A. Yes, I seen that red light at that time.

Q. Did you see any other light?

A. No sir, I didn't observe another light.

Q. From what position did you first see the red light after the collision? A. Was walking aft.

Q. Right ahead on the deckload? A. Yes.

Q. How was that light burning? A. Bright sir.

Q. Have you been to sea where they burn oil lamps?

A. Yes sir.

Q. Are you accustomed to the oil lamps.

A. Yes sir.

Q. Lights on ships? A. Yes.

Q. Signal lights? A. Yes.

Q. How would you say this light compared with the ordinary oil lamps used for signal lamps on ships?

A. Well, just about the same, burning bright—what we call bright.

CROSS EXAMINATION.

Q. (MR. HUGHES) What is your position?

A. I am an able-bodied seaman.

Q. How long have you been on the "Strathalbyn"?

A. About three hours.

Q. Just been employed there?

A. Yes sir, I joined her in Tacoma.

Q. For a voyage? A. Yes sir.

Q. So you don't know anything about her except what you learned in that three hours? A. No sir.

Q. Did you observe how much those lamps were smoked? A. No sir.

Q. You did not observe? A. No.

Q. You only saw the red lights? A. Yes sir.

Q. Did you observe any other lights on her?

A. After we had loaded the boats, the second boat, the second port boat, I saw the starboard light. The starboard light was out then after the collision.

Q. Was out? A. After the collision, yes.

Q. How long was it after the collision that you saw that the starboard light was out?

A. I didn't see it, sir. The third mate told me to light the starboard light.

Q. To light it, and you went around and lighted it, did you? A. Yes, we took it in the wheelhouse.

Q. Was it pretty badly smoked?

A. No, it was not smoked, as far as I could see.

Q. Well, now, the glass was smoked more or less, wasn't it?

A. No. I don't think that there was any glass inside.

Q. I know, but the outside glass.

A. No, it was not smoked.

Q. Are you sure about that? A. Yes.

Q. Did you clean it at all?

A. No, I didn't clean it—just burning bright afterwards—after we had lit it.

Q. When you went to take it, it was out, was it?

A. At the time we took it from the light screen, yes.

Q. That was pretty shortly after the collision, was it? A. Yes. Well, we had made two boats ready then.

Q. Made two boats ready and then you lighted this light? A. Yes.

MR. HAYDEN: I move to strike all of that testimony about the starboard light, as incompetent, irrelevant and immaterial.

Q. (MR. HUGHES) Did anybody tell you about having had to light up the port light?

A. I didn't catch it, sir.

Q. Did anybody tell you about having to light up the port light? A. No.

Q. About the port light being out at that time?

A. No sir. I went over—when I had lit that light I went over to the other side and had a look at the port light at the same time and it was burning bright.

Q. Did you know whether anybody else had lighted it? A. No sir.

Q. Nobody told you anything about that?

A. No sir.

Q. Did the mate tell you to go and look at it?

A. No.

Q. After you lighted the starboard light? A. No.

Q. How did you come to go over there and look at it? A. Well, I made it my business to do so.

Q. Had you had anything to do with lighting either of these lights before you started out from Tacoma?

A. No sir.

Q. Did you ever see them or examine them before the collision? A. No, I did not.

Q. The first time that you ever noticed any of these lights, then, was after the collision? A. Yes.

Q. When you came out—after you came out of the forecastle? A. Yes.

Q. You say you came out of the forecastle pretty quick? A. Yes sir.

Q. And then you went back, climbed up on the steps made of the projecting timber, was it?

A. Yes, that is right.

Q. And do you know how many of those steps you climbed up? A. Well, I didn't count them.

Q. Do you know how far they were apart?

A. No, I didn't take any notice of that.

Q. Pretty good climb, though, wasn't it—straight up, wasn't it? A. I guess I could do it in one step.

Q. Were you scared so badly you didn't know anything about it? A. Yes, I came out—

Q. (Interrupting) Rushed up there to see what was the matter? A. Yes.

Q. Now, when you got up on top, were you about the center between the port and starboard sides of the ship—how? A. I went right up to the port side.

Q. No, but when you got up on the cargo, those steps leading up there from your forecabin was about the center of the cargo, wasn't it?

A. Yes—not quite in the center, more forward.

Q. Well, I don't mean that, but was it nearer to the port side than the starboard, or nearer to the starboard than the port?

A. I think it was nearer the starboard side.

Q. A little nearer to the starboard side? A. Yes.

Q. When you got up on top there did you say you saw the port light? A. Yes sir.

Q. When you first got up on top?

A. No, when I came up on the port side—exactly up on the port side.

Q. Well, did you go right, straight over to the port side?

A. You see she was keeled over very much, you know, and I made for the higher side of the boat.

Q. The starboard side was low? A. Yes.

Q. Listed? A. Yes.

Q. And you made for the higher side? A. Yes.

Q. You got clear up over the edge of the ship, did you? A. Yes, right to the stanchions there.

Q. And right by the stanchion? A. Yes.

Q. Well, could you see over the top of the stanchion to see the port light?

A. No, I don't think I seen through—I could see through the stanchions to see the port light.

Q. You could not see through a stick of wood, could you?

A. No, but the stanchions were far apart, sir.

Q. The screen would keep you from seeing the light until you got clear out—

A. (Interrupting) Yes.

Q. (Continuing)—parallel with it.

A. I know, but I was right up on the weather side so that I could see it.

Q. You were up, clear up to the rail, the ship's rail?

A. Yes.

Q. Outside edge of the—

A. (Interrupting) Well, as far as I could go, as close as the lumber.

Q. And that would put the stanchion right in front of you, wouldn't it?

A. No. Well, the stanchions were all along close all the way.

Q. All the way along there?

A. Yes, on that high part.

Q. You were tall enough to look over the top of the stanchions, were you, the stanchions were not—

A. (Interrupting) I don't remember that, sir, whether I could see over the stanchions or not.

Q. Do you remember how high the stanchions were above the lumber? A. No sir.

Q. How tall are you? A. I am about five feet nine.

Q. And when you got back to the end of the lumber you crawled over the railing of the bridge onto the bridge deck, did you? A. That is right, sir.

Q. That railing is about how high?

A. About three feet.

Q. How close did the lumber come up to the rail?

A. Well, it was below.

Q. How close did it come up to that part of the ship, I mean.

A. Oh, I see. I didn't notice that, sir. I didn't notice that.

Q. Was there any space between the cargo and the bridge? A. I didn't notice that, sir.

Q. You didn't notice it? A. No sir.

Q. You were still scared and in a good deal of a hurry, I suppose? A. Oh, I was not scared.

Q. Weren't you? A. Oh, no.

Q. How far were you in front of the light when you saw the red light? A. Well, I was—

Q. (Interrupting) How close were you to it?

A. I was just—I was—it was the first—the first I see as soon as I came up on the port side I went at right angle up.

Q. You went diagonally across the cargo to get up to the

A. I went at right angle from the end of the entrance to the forecastle right up.

Q. That is, you turned to your right as you walked back? A. Yes.

Q. And kept up until you got to the higher side?

A. Yes, that is where I seen—

Q. (Interrupting) How near were you, then, to this light when you first saw it?

A. Well, I was—from the light, I don't know how far I was from it.

Q. Fifteen or twenty feet in front of it?

A. Oh, yes.

Q. How? Yes sir.

Q. Was it more than that?

A. Well, I can't say exactly, sir?

Q. Well, you were pretty close to it, weren't you?

A. Yes.

Q. Were you standing inside of the stanchions when you saw it, or leaning outside of the stanchions?

A. I was standing inside of the stanchions, sir.

Q. And then light was right, straight ahead of you, was it?

A. Oh, I don't know whether it was right straight ahead, but I know the impression I got that I seen the red light.

Q. Did you notice when you looked at it afterwards whether the screen-board was parallel with the ship?

A. Yes sir, I noticed.

Q. Now, when the mate told you to go and light the starboard light you say you took it out?

A. The third mate took it out himself.

Q. Then you lighted it and took it back and put it in its place?

A. No, the third mate put it back in its place. I just lit it.

Q. Then you did not go to the screen-box itself?

A. Yes, I was down there.

Q. Where was the screen-box?

A. It was right on the—

MR. HAYDEN: (Interrupting) Same objection as to this starboard light, as immaterial.

Q. On the lower part of the lower bridge—on the forward part of the lower bridge.

Q. (MR. HUGHES) On the outer end of the lower bridge? A. Yes.

Q. On the port side and right under, about the floor of the bridge? A. Yes.

MR. HAYDEN: What is this on the port side?

MR. HUGHES: Or starboard side, I mean. I am speaking of the starboard light. A. Yes.

Q. I meant the starboard. How much was it inside of the end of the bridge?

Q. (MR. HAYDEN) If you know.

A. Inside of the end?

Q. (MR. HUGHES) Answer me. (Drawing.) Here is the bridge. Now, the ship runs along underneath here.

MR. HAYDEN: I object to that picture as not being an accurate representation of the situation.

Q. (MR. HUGHES) Call this the end of the bridge and the ship running down below like that, the screen was right on the floor there, just inside of the end of that bridge, was it?

A. No, outside of the bridge, outside of the bridge.

Q. Well—

A. (Interrupting) Outside of the lower bridge. Here is the lower bridge, see?

Q. Yes.

A. And here is the light standing here in the screen. The light would come—would be aft of the bridge, like this. Here is the place for the light, about. The screen goes the whole way this way.

Q. How much is that inside of the rail of the ship?

A. I don't know, sir.

Q. You don't know? A. No.

RE-DIRECT EXAMINATION.

Q. (MR. HAYDEN) How long were you working getting the two boats down?

A. Well, I don't know how long a time it takes, sir

Q. Had some trouble with your falls, didn't you?

A. Yes.

Q. Tangled up on you?

A. We lowered it—the forward boat first, lowered it level with the rail and then we went aft and shoved the other boat out, and then I went back again and cleared the falls of the forward boat.

RE-CROSS EXAMINATION

Q. (MR. HUGHES) Had you done that before the "Flyer" came up to you?

A. I don't know, sir. I don't know exactly if I seen the "Flyer" or not, because I was busy on that boat.

Q. Don't you remember seeing the "Flyer"?

A. Yes, I saw the "Flyer", I believe, but I don't know who they are.

Q. You heard somebody from the "Flyer" call and ask if there was anything wrong? A. Yes, I did.

Q. That was after you lighted the light, wasn't it—the starboard light? A. Yes, that is.

(Witness excused.)

JOSEPH SHEEHAN, produced as a witness on behalf of libellant, having been first duly sworn by the Notary to tell the truth, the whole truth and nothing but the truth, testified as follows:

Q. (MR. HAYDEN) What is your full name?

A. Joseph Sheehan.

Q. What is your business?

A. Fireman on the "Strathalbyn".

Q. Were you on board the "Strathalbyn" the night of this collision with the "Virginian"?

A. Yes sir.

Q. Where were you at the time of the collision?

A. In the forecastle, sir.

Q. What side? A. The port side.

Q. What did you do after the collision?

A. After the collision we got all on deck, lowered the boats, sir, lowered the life boats.

Q. What did you do immediately after the collision when they came together?

A. We got up on deck, sir, as quick as we could, out of the forecastle, out of the alleyway, and on top of the lumber and along the port side, sir.

Q. Did you see any lights while you were going along the port side?

A. Yes, I seen a masthead light burning bright, and the port light burning, and I had to cross from the port side to the starboard boat on the bridge deck to this boat I belonged to—No. 2 boat, second mate in charge.

Q. How was the port light burning?

A. The port burn bright, sir.

Q. Did you see the starboard light at all?

A. No, I didn't see the starboard light at all, sir.

Q. You were on the port side of the ship?

A. On the port side of the ship.

CROSS EXAMINATION.

Q. (MR. HUGHES) What is your nationality?

A. Fireman, sir. Nationality? An Irishman, sir.

Q. What watches did you keep on that ship?

A. 8 to 12, sir.

Q. What? A. 8 to 12 watch, sir.

Q. Had you changed watch at 8 o'clock yet?

A. Yes sir. The man came to call us at three bells, half past seven; that is half an hour before we go on; and the man on the lookout, he was singing out at three bells "The lights are burning bright."

Q. I am asking you if you had changed watch at 8 o'clock before this collision occurred?

A. No sir, did not.

Q. Well, was it time to change watch?

A. No sir, it was not. Twenty minutes to 8 when the collision occurred. Twenty minutes more I should go on watch.

Q. Twenty minutes more? A. Yes.

Q. By your ship's time? A. By our ship's time.

Q. You climbed up on this deck cargo, did you?

A. I did, yes.

Q. And you went up to the port side because the ship was listed there? A. The ship was listed.

Q. Listed pretty badly, was it?

A. Very badly, sir, listed, and all the time from the time she struck the water was running into her hold.

Q. She was listed before that, wasn't she?

A. She was listed right after the collision, sir.

Q. But she hadn't had time to list very much after the collision before you got up on top of there, had she?

A. Oh, no, she had listed over all the time, but she had more of a list when the water—

Q. (Interrupting) But there hadn't been very much time for the water to list her very much after the collision before you got up there? A. No.

Q. About how much was she listed when you walked across her cargo load?

A. She had listed bad enough that I had to hold to those scantlings what was keeping the cargo tight, catch hold and walk around the port side.

Q. You did? A. Yes.

Q. Those stanchions—you mean the stanchions?

A. Stanchions, yes sir.

Q. There were stanchions along the port side, were there? A. Yes sir.

Q. And also stanchions at the end next to the bridge

A. Yes, up as far as the bridge, not—just up to the bridge, that is, up to the fore bulkhead, I call it.

Q. How close are those stanchions together that you got hold of to walk along as you walked along the port side?

A. They were right there and we had a line to walk along, like a life line, to catch.

Q. How far apart were they?

A. About six feet apart, I think.

Q. And then a life line stretched along from one to the other? A. From one to—

Q. (Interrupting) And you walked along by catching hold of that life line and walking along the starboard side of the ship as she was listed there? A. Yes sir.

Q. (MR. HAYDEN) On the starboard side?

A. Port side.

Q. (MR. HUGHES) I mean the port side walking along toward the bridge.

A. Yes. I had to jump on the bridge then from the lumber to get on the bridge, to go on to the boats.

Q. Did you get across right there at the port side or did you go down towards the middle?

A. I had to go to the bridge deck before I crossed over on the starboard side. It was a starboard boat.

Q. Yes, but you walked back to the bridge deck along the port side? A. Yes.

Q. And then did you climb up on the bridge deck from the port side?

A. Yes, I climbed up on the bridge deck from the port side.

Q. Climbed across that rail? A. Yes.

Q. The cargo was close enough so that you could take hold of the railing with your hand and climb over?

A. Climb over, yes.

Q. Then you went across to the starboard side?

A. Starboard side.

Q. You went across in front of the chart house, did you? A. In front of the engine room, sir.

Q. In front of the engine room, yes.

A. Yes, the boats were abreast of the engine room, abaft of the bridge.

Q. Did you notice the starboard light?

A. I didn't take any notice of the starboard—I noticed, the port light I could see quite plain.

Q. You know as a matter of fact the starboard light was out, don't you?

A. I didn't take no notice of it because we pulled constantly when we got lowering the boats and working the falls—

Q. (Interrupting) When you were working there, before you got those boats down on the starboard side, didn't you see the mate take out the starboard light and light it and put it back again?

A. No sir, I didn't take any notice, because we got all of us below, all the firemen had gone below. We all had to go down below to run her aground or whatever point they were going to run her, because the boat was

filling up with water ; all hands had to go below in the fire room.

Q. Oh, put you on duty?

A. On duty, sir, after the collision.

Q. As you walked back you walked along the inside of the stanchions, didn't you? A. Yes sir.

Q. Holding fast to that life line? A. Yes sir.

Q. As you were walking back, when you came over to the port side, could you see that port light?

A. Yes sir, burning bright, and the lamp—mast-head light showed me right on top of the lumber.

Q. So that walking back there you could look right at the port light, could you? A. Yes sir.

(Witness excused.)

P. FURLONG, produced as a witness on behalf of LIBELLANT, having been first duly sworn by the Notary to tell the truth, the whole truth and nothing but the truth, testified as follows :

Q. (MR. HAYDEN) What is your name?

A. P. Furlong.

Q. You were aboard of the "Strathalbyn" the night of the collision? A. I was, sir.

Q. What were your duties?

A. Fireman and trimmer.

Q. Where were you at the time of the collision?

A. I was in the fore-castle, sir.

Q. Which side? A. Port side, fireman.

Q. How long had you been in there just before the collision? A. About ten minutes, sir.

Q. Are you the man who came up to call the watch?

A. Yes sir.

Q. What did you do as soon as the ship struck?

A. I made a rush up at the fore-castle for the deck. As I was coming up—

Q. Just go right ahead.

A. As I was coming up the opening in the lumber that is about amidships, between the two fore-castles, why, I happened to look up and I saw that the mast-head light was burning, and I run over them and as I came up she had such a list I had to go down on my hands and

knees, I hurt my knee. I never noticed until I got up on deck.

Q. Hurt your knee down in the forecastle somewhere?

A. Yes, a barrel of oil struck me there, coming up, and then I crawled over, got hold of the rail and managed to go along the rail on the port side until I got aft.

Q. Did you see the light at all while you were forward—the port light? A. I did, yes sir.

Q. How did it appear to be burning?

A. It appeared to be burning the same as any other ordinary light—oil light. I should say bright.

Q. And you continued aft on the port side of the vessel, did you? A. Yes sir.

Q. Crawled up over the railing on the deck that the light was on? A. Yes sir.

Q. Did you see the light close to it? A. Yes sir.

Q. How far away?

A. I should judge about ten feet.

CROSS EXAMINATION.

Q. (MR. HUGHES) And you say you had been in the forecastle cabin about ten minutes before the collision? A. Yes sir.

Q. Where were you before that?

A. I was up on top on the fidley at the engine room, shifting the ventilators.

Q. That would be on what deck?

A. That is aft of the bridge on the maindeck, sir, amidships on the steamer.

Q. How did you get from there to the forecastle?

A. I came down a ladder and walked forward on the port side, in underneath the two bridges and on the lumber.

Q. Then you went under the two bridges and then when you came to the lumber climbed up over the lumber?

A. No, there is a step there, I walked up a step about the height of this, walked up onto the lumber and then forward down into the forecastle.

Q. That is to say, when you were forward you had—after you got in front of the bridge you had to go up on top of the lumber and across along the lumber, over

the deck cargo, and then get down to the forecastle head, didn't you?

A. Well, after I came down off the fidley I walked out on the main deck, that is, under the main bridge, up about four steps—a little ladder with four steps on it, stepped off onto the lumber and walked forward on the port side and then down into the forecastle.

Q. You stepped up on top of the lumber, I say, and walked along the top of the lumber? A. Yes sir.

Q. Now, then, did you go along the port side the same way when you went over there? A. Yes sir.

Q. There was a pretty bad list so that you had to walk along the port side and hold fast?

A. I don't call it a bad list, no sir; it was a bit of a list.

Q. Well, you walked along the port side? A. Yes.

Q. Held fast to that rope that was—

A. (Interrupting) That was after the accident. I didn't hold fast to nothing before the accident. I walked without holding onto anything.

Q. Oh, your knee was hurt in the accident?

A. Yes sir, a barrel of oil struck me.

Q. When you walked across did you walk along the port side, when you first went across to go down into the forecastle? A. To call the watch?

Q. Yes. A. Yes, I walked on the port side.

Q. Walked along the port side because it was the upper side of the ship?

A. The other side was ashes on and I naturally went on this side.

Q. For whatever reason, you went along the port side?

A. Yes, what you call the weather side. The seamen always calls the weather side.

Q. What kind of a railing was there along there?

A. Railing? The railing of the ship.

Q. There was no railing of the ship on top of the cargo? was there.

A. No, but there was a life line there, I should say a two-inch rope.

Q. That is what I wanted to get at. What was that life line made fast to?

A. Made fast to the forerigging on the port side, one end of it, and the other end was made fast to the bridge.

Q. Well, it was fastened to those stanchions also?

A. Not every one of them, every other one.

Q. Fastened as you went along to some of the stanchions? A. Yes sir.

Q. So that it ran along parallel with those stanchions? A. Yes sir.

Q. And as you would walk along there you could take hold of that life line if necessary? A. Yes sir.

Q. Now, do you know what time it was when you went in there to call the men, by your ship's time?

A. I judge it was about twenty minutes to 8.

Q. When you went in and called them?

A. Well, no, it was about 7:30.

Q. How do you know?

A. The lookout sang out "All's well"—struck three bells just as I got forward half way between the bridge and the forecastle.

Q. You did not look at your time, though?

A. I didn't have any time.

Q. You didn't? Well, you don't know just how long you had been in there before this collision occurred?

A. Well, the way I found out, you know, I was in there, I heard the fellow strike the bell and report the lookout, the light, and then I inquired what time he struck them and he told us twenty minutes to eight.

Q. You are governed, then, by what somebody else told you as to the time they struck?

A. Well, I went up and reported to the captain I was unfit for further duty, and I seen the clock.

Q. After the collision?

A. Yes sir, after the collision.

Q. What time was it when you saw the clock?

A. About eighteen minutes to nine.

Q. Eighteen minutes to nine?

A. Eighteen minutes to nine, I should say.

Q. Now, did you hear any whistles while you were in the forecastle cabin, or did you pay any attention to them?

A. Yes, I heard two single—I heard one whistle

and then another one shortly afterwards, then three, but I didn't pay no attention to them much. I could not state whether it was the "Strathalbyn" or some other vessel that blowed.

Q. But as soon as the collision occurred you rushed out? A. Yes sir.

Q. And then you climbed up onto the deck cargo, and your knee being hurt you crawled on your hands and knees to the—

A. (Interrupting) To the port side.

Q. To the port side because it was high. A. Yes.

Q. And then you walked along by the rope?

A. Yes sir.

Q. Or crawled along?

A. Crawled along, leaning over the railing, you know; walked along stanchion by stanchion until I got—

Q. (Interrupting) You would catch hold of the rope? A. Yes.

Q. Did you walk or did you—

A. (Interrupting) I dragged myself along the best way I could.

Q. Could you stand on that leg at all?

A. Well, I managed to get along.

Q. What I am trying to get at is whether you were down on your hands and knees as you went along the port side?

A. After I got along on the port side to the life line, I managed to stand and go aft and report to the captain.

Q. And by the aid of the life line you walked along the port side— A. Yes sir.

Q. Back. Now, when you got over to the port side to this line and faced back, did you see the port light?

A. Yes sir.

Q. You could look right straight back at it, could you? A. Yes sir.

Q. And see it? A. Yes sir.

Q. And it was right in your face all the way as you walked back along that line? A. Yes sir.

Q. About how far in front of it were you when you first saw it? A. About ten feet.

Q. Well, then, you must have gone diagonally across the deck cargo? A. Yes.

Q. To get to that life line? A. Yes.

Q. Did you have anything to do with lighting these lights or taking care of them? A. No sir.

Q. You hadn't paid any attention to the lights before that time at all?

A. Well, it was about seven o'clock, as near as I can judge, on that side, and I was urinating, I see the red light burning on that side. I came up to get a little air and took a look around.

Q. You usually go to the weather side for that purpose, do you?

A. No, it was not blowing hard enough, it didn't make any difference which side.

RE-DIRECT EXAMINATION.

Q. (MR. HAYDEN) When you heard this lookout, what were the words that you heard that lookout sing out as you were going forward?

A. "All's well", sir.

Q. Did you hear him say anything more?

A. That is all.

Q. Did he say anything about the light?

A. Not a word, sir.

RE-CROSS EXAMINATION.

Q. (MR. HUGHES) Do you know whereabouts this life line on the port side was fastened to the bridge?

A. Well, I should judge between the two bridges—no I would not answer that question; I don't know.

Q. Well, somewhere between the two bridges?

A. I don't know where it was fastened. All I know it was fast.

(Witness excused.)

(The hearing was here adjourned until some time agreeable to counsel.)

Transcript of Testimony, at hearing February 14-16, 1912, on behalf of libellant.

Further hearing pursuant to order of Court, before R. J. McMILLAN, Commissioner, for taking testimony.

The libellant appearing and being represented by its proctors, Messrs. HUFFER, HAYDEN & HAMILTON, and the claimant and respondent being represented by their counsel and attorneys, Messrs. BOGLE, GRAVES, MERRITT

& BOGLE, and Messrs. HUGHES, McMICKEN, DOVELL & RAMSEY.

Whereupon the following witnesses were called and gave testimony in behalf of the libelant, to-wit:

JAMES BURNS, being produced and sworn on behalf of the libelant, testified as follows:

DIRECT EXAMINATION.

Q. (MR. HAYDEN) What is your name, please?

A. James Burns.

Q. What is your business?

A. I am captain of the "Flyer".

Q. How long have you been master of the "Flyer"?

A. About six months.

Q. How old are you captain? A. Forty-four.

Q. How long have you been following the sea?

A. About 28 or 30 years.

Q. How long have you been master. A. About ten.

Q. Were you master of the steamer "Flyer" on the night of the collision between the "Strathalbyn" and the "Virginian"? A. Yes sir.

Q. Did you see the "Virginian" and "Strathalbyn" that night? A. Yes sir.

Q. Where did you first see the "Virginian"?

A. Around Alki Point.

Q. Which direction were you coming from?

A. I was coming from Seattle to Tacoma.

Q. And which direction was the "Virginian" coming? A. From Seattle to Tacoma.

Q. Did you see the "Virginian" before you got to Pully Point? A. Yes.

Q. What manoeuvres did you execute in passing the Virginian? A. I passed under her stern.

Q. Did you give any signals?

A. Yes, one whistle in passing, and he answered me back one whistle.

Q. At what place did you pass the "Virginian"?

A. Right off Pully Point.

Q. Where did you first see the "Strathalbyn"?

A. Just about Pully Point.

Q. And where was the "Strathalbyn" when you saw her?

A. I would judge she was half way between Robinson Point and Pully Point.

Q. What did you notice on the Strathalbyn?

A. I noticed her range lights.

Q. Did you have the "Strathalbyn" in sight all the time? A. Yes sir.

Q. Until you had passed her and until the collision?

A. Yes sir.

Q. How far from the "Virginian" did you pass her?

A. About 200 yards or more.

Q. On which side?

A. The port side; about 250 feet or more—not yards.

Q. On whose port side? A. The "Flyer's" port side.

Q. How far were you from the "Strathalbyn" when you passed her?

A. I have been speaking of the "Strathalbyn".

Q. No, I am talking about the "Virginian".

A. Oh, the "Virginian." I was probably a quarter of a mile or more from the "Virginian" when we passed the "Strathalbyn".

Q. How far were you from the "Virginian" when you passed the "Virginia" abeam of Pully Point?

A. Oh, probably 250 feet.

Q. Could you make out the loom of the hull of the "Strathalbyn" as you were approaching her?

A. Yes sir, I could make her out; I could see the lights and make out the hull by the lights.

Q. How far away would that be?

A. About 250 feet; we passed abreast of her that far.

Q. Did you see the loom of the "Strathalbyn's" hull, or see her light, more than 250 feet away?

A. I saw the lights, but I did not notice the hull until she got abreast of me.

Q. Did the "Strathalbyn" give you any signals?

A. Yes.

Q. What were they?

A. One whistle, and I answered them.

Q. How far from the "Strathalbyn" were you at that time?

A. That would be hard to judge. I couldn't tell.

Probably a half or a quarter of a mile, something of that kind.

Q. What kind of a night was it?

A. It was pretty clear.

Q. Was there any fog? A. No, I did not see any.

Q. What kind of a night was it for the sight of lights? A. A pretty fair night.

Q. Did you hear the "Strathalbyn" give any signals to the "Virginian"?

A. Yes sir, I heard them blow one whistle, and then the second whistle, and that is all I heard; those two whistles.

Q. Did you hear any danger whistles?

A. Oh, yes, I heard that, yes sir; that is what made me turn around and go back.

Q. Did you turn around immediately and go back on hearing the danger whistles? A. Yes sir.

Q. Did you hear any whistles from the "Virginian"? A. No.

Q. Did any danger whistles sound from the Virginian at all?

A. No sir; they may have blown them, but I did not hear them.

Q. On which side of the "Strathalbyn" did you approach on coming back. A. On the starboard side.

Q. What did you do after you got back?

A. I hailed both vessels and asked if I could do anything for them. I went from the "Strathalbyn" to the "Virginian" and then back to the "Strathalbyn". Captain Beecher asked me to do it.

Q. And they did not need any assistance from you?

A. No sir.

Q. And you went on to Tacoma?

A. I went on to Tacoma, yes sir.

CROSS EXAMINATION.

Q. (MR. HUGHES) Do you know what time it was by your ship's time when you passed Pully Point?

A. Yes sir, it was 7:55.

Q. Did you take that time yourself?

A. Yes, I took it off.

Q. Was that just after you passed the "Virginian"?

A. Yes sir; I put the time down. Both vessels were off Pully Point together.

Q. Of course there was some little period, half a minute or so, in which you might consider yourself off Pully Point? A. Yes sir.

Q. Perhaps a minute that you would be passing?

A. Yes sir, that, or maybe two minutes.

Q. Now, as you approached Pully Point, the "Virginian" was just ahead of you, before you got to Pully Point? A. Yes sir.

Q. Before she got to Pully Point? A. Yes sir.

Q. And you were overtaking her? A. Yes sir.

Q. Did you change your course to pass on the starboard?

A. Yes sir. I changed to pass under the stern before we got to her.

Q. Which way did you change?

A. I ported my helm.

Q. About how much did you go off to starboard?

A. I steered southwest about two points and a half, or something of the kind; a point and a quarter, or a point and a half.

Q. Did you swing off to pass? A. Yes, to clear her.

Q. And passing under her stern, you kept steering further away from her? A. Yes.

Q. Did you keep on that course until after or about the time you passed the "Strathalbyn"?

A. No sir; when I got far enough from the "Virginian" that I could run my own course, I hauled back on my own course.

Q. But did you have the "Strathalbyn" pretty near abreast of you when you hauled back on your course to Robinson? A. No sir.

Q. Before that?

A. Yes sir; quite a while before that.

Q. You had got about an eighth of a mile beyond the "Virginian" when you got this whistle from the "Strathalbyn"?

A. Something like that; probably more; about seven points of her stern when the collision occurred.

Q. That is the Virginian? A. Yes.

Q. But I mean when you first got the whistle from the "Strathalbyn", the "Virginian" was about how off your stern? A. Six or seven points.

Q. Then you had swung pretty well off before you changed back on your course?

A. The course I steer, from Alki Point—I hauled the ship over this side to clear the stern, and when I thought I could haul back on my regular course, I did so, southwest by south, half south, and steered for Pully Point, and then I saw the "Strathalbyn" and they kept on that course and did not shift at all. I think I had passed the "Strathalbyn", and before I had hauled back on my course from Pully Point to Brown's Point, which is southeast, half south.

Q. It was as you passed the "Strathalbyn" that you hauled back? A. Yes sir.

Q. So you kept your course which you took for the purpose of passing the "Virginian" until you passed the "Strathalbyn"? A. Yes sir.

Q. And that was taking you off to the starboard all the time?

A. Yes sir. Of course I had to haul up more to the regular course to clear the point.

Q. You say you saw the range lights of the "Strathalbyn"? A. Yes sir.

Q. Before you heard her whistle? A. Yes sir.

Q. About how long after?

A. Oh, not very long, I don't know just how long.

Q. What else did you see?

A. I saw the lights on the mainmast and head light.

Q. You saw two lights apparently aloft on the ship? A. Yes sir.

Q. What kind of lights were they?

A. Lamps, I guess; the regular range lights.

Q. White lights? A. Yes sir.

Q. Bright or dim?

A. Regular lamp lights; oil lights.

Q. Did you have any difficulty in sighting them and determining what kind of lights they were?

A. No sir, I never thought of it at all.

Q. You knew which way she was going?

A. Yes, by the lights, that is all.

Q. You assumed from those two lights that she was coming towards you, and also from the fact of giving one whistle? A. Yes sir.

Q. Which way did she bear from you when she gave that whistle?

A. We were heading that way and she was heading this way.

Q. Now, that is apparent to us, but you see it does not show on the record.

A. Well, we were heading this way.

Q. How would they be with reference to your course?

A. It would be jibed on the opposite course until we headed further southeast, and he was heading about northwest by north, something like that.

Q. Well, suppose these represent two points, and that would be Robinson and this Pully Point; now indicate your course?

A. We were headed around this way (indicating).

Q. You swung out this way, and now when you get to a certain point where you think you hauled back, project the line? A. In this way.

Q. Well mark it? A. That is all right.

Q. Now your course would be what?

A. About southeast.

Q. Now in passing Pully Point, up to the time you changed your course, what would be your course here?

A. Southeast by south, half south.

Q. Now then mark about what would be the course of the other vessel which was coming towards you, and give us nearly as you can estimate what his direction would be?

A. It was coming this way; when I could see him he was heading down here somewhere (indicating); that would be northwest by north, about half north, as near as I could judge.

Q. That is only approximate, but this line would be as nearly as you can estimate would be the "Strathalbyn's" course when you first saw her and up to the time she blew her whistle? A. Yes.

Q. And this represents the "Flyer"? A. Yes sir.

Q. Now this represents the direction of the "Strathalbyn" and this the direction of the "Flyer"; is that right? A. Yes.

WHEREUPON sketch was marked as respondent's Identification No. One.

Q. Now these two white lights which you saw on this ship which gave you one whistle, were the only lights? A. That is all I saw, yes.

Q. You answered her whistle? A. Yes sir.

Q. And as you proceeded on your course and she on hers, she drew abeam of you? A. Yes sir.

Q. Now when she was about abeam of you was the time that you heard her give another whistle?

A. Yes sir, somewhere there.

Q. She was either abeam or so nearly abeam that you did not take her next whistle to be intended for you at all? A. Oh, no.

Q. You assumed it was intended for the "Virginian", which you had passed? A. Yes sir.

Q. The "Strathalbyn's" lights were bright and clear so that you knew she was ahead? A. Yes sir.

Q. And that is why you assumed she was blowing the second whistle for the "Virginian" and not for you?

A. Yes sir.

Q. When she was abeam of you how far do you think she was off?

A. Oh, two hundred or two hundred and fifty feet.

Q. Wasn't she further?

A. She may have been further or closer, I cannot say.

Q. You say you could not see her red light?

A. No, I could not; if it was there I did not see it.

Q. And you did not see it at any time as you passed by her? A. No sir.

Q. About how long would you say it was after she blew that second whistle when she was about abeam of you until you heard her blow another whistle; the first that you knew was not for you was when she was about abeam of you? A. Yes.

Q. And you heard her blow another which you remember about? A. Yes.

Q. And that is all you remember except the danger whistle? A. Yes sir.

Q. How much time was there between those two single blasts which you say she blew after you passed her?

A. Time enough to give a man a chance to answer; I don't know just how long.

Q. Probably a minute or more?

A. Yes, it might be more.

Q. And about how long after she blew the second whistle would you say it was before you heard the danger signal? A. It was not very long.

Q. You were going on your course at about what rate? A. Oh, she makes about $14\frac{1}{2}$ knots.

Q. You had got how much by her when you heard the danger signal?

A. Probably half a mile or more astern.

Q. Did you happen to look back and notice the Virginian at the time you heard this danger signal?

A. Yes, sir, I looked back there.

Q. And you say you could see her?

A. Yes, sir, I had to see her to find her.

Q. Oh you had not turned around before you heard the danger signal? A. No sir.

Q. You looked back and saw both ships?

A. Yes sir.

Q. About how far apart?

A. Three-quarters of a mile back of me.

Q. About how close to each other?

A. Oh, I could not see that.

Q. You could not see well enough to see how close they were. A. No, sir.

Q. Did you see them come together in collision?

A. No, sir.

Q. Did you hear the collision? A. Yes.

Q. Did you stop your ship before you heard the collision?

A. No, sir, after I heard the collision I stopped and turned around.

Q. Did you stop immediately after hearing the collision? A. Certainly.

Q. How long would it take to bring your vessel to a stop and get it turned around and start back?

A. We can stop her in about thirty seconds.

Q. And get around?

A. I could get her around in about five minutes.

Q. Then you had to go back probably a mile to the ships? A. Yes, more or less.

Q. So about how long would you say it was; was it ten minutes after the collision before you got back to the Strathalbyn? A. No, it would not be that much.

Q. It would be in the neighborhood of that?

A. Well, by the time she got turned around, she would be there. She takes a big swing.

Q. It would take you probably ten minutes?

A. Well it may have taken that long.

Q. You first came up to the Strathalbyn?

A. Yes, sir.

Q. How was she lying?

A. She was lying starboard side towards me as I went back there.

Q. About what course were you steering when you approached her and found her starboard side towards you? A. Somewhere about northwest.

Q. Was she then practically lying across your course? A. Yes, sir.

Q. That is, this ship was about at right angles to your course as you approached, so that you approached his starboard beam. A. Yes.

Q. And how near did you come to the Strathalbyn?

A. Oh, pretty close; probably 50 or 75 feet or less.

Q. When did you notice his starboard light?

A. When I came up to her.

Q. Did you notice it before you got close?

A. Oh, yes; I saw it.

Q. How near do you think you were before you saw the starboard light?

A. I saw it when I turned around; it might have been 100 feet or 75 feet; something like that.

Q. Then you spoke to the pilot of the Strathalbyn?

A. Yes, sir.

Q. And asked if there was any injury or if you could render any assistance? A. Yes, sir.

Q. Then what did you do?

A. I went to the *Virginian* and asked the same.

Q. How did the *Virginian* lie with reference to the *Strathalbyn*?

A. They seemed to be both lying in the same position.

Q. The *Virginian* was on the Seattle side?

A. No; on the Vashon side, and the *Strathalbyn* was on the mainland side.

Q. And the *Virginian* was the other side and beyond the *Strathalbyn* from you when you approached?

A. Yes, sir.

Q. But not heading in the same direction?

A. Something in the same direction; swung around.

Q. About how far from the *Strathalbyn* was the *Virginian* when you got up?

A. Couple of hundred feet, or one hundred feet; something like that.

Q. Wasn't she more than that?

A. Well I could not say.

Q. You passed around the bow of the *Strathalbyn*?

A. No, on the starboard side, not around the bow.

Q. But to go to the *Virginian*?

A. I passed around this side; I came along on the starboard side, and went to the *Virginian*.

Q. Did you pass by the stern of the *Strathalbyn* or around the bow? A. By the stern.

Q. You passed under the stern and went over to the *Virginian*? A. Yes, sir.

Q. And you were going very slowly? A. Yes, sir.

Q. And you stopped and hailed the *Virginian*?

A. Yes, sir.

Q. How close were you to the *Virginian*?

A. Fifty feet more or less.

Q. Did you notice the *Strathalbyn* there while you were talking to the pilot of the *Virginian*?

A. I did not look back at her until I came around to find her again.

Q. At that time you would be on the port side of the *Strathalbyn*?

A. No, sir; she would be astern of me.

Q. And when you left the Virginian you went back to the Strathalbyn? A. Yes, sir.

Q. And hailed her again? A. Yes, sir.

Q. What conversation occurred?

A. I asked Captain Beecher if he wanted assistance and he said no; that he thought he could make Tacoma all right. So I went to Tacoma, and came back and spoke him again off Brown's Point, or Robinson's Point.

Q. When you hailed Captain Beecher the second time, where were you with reference to the Strathalbyn?

A. Right abreast of her; right close to her, on the starboard side.

Q. Was she swinging around more towards Tacoma?

A. He had her on her course by that time, it appeared to me.

Q. So that if he was athwart your course he must have been swinging around in the meantime and moving slightly towards Browns Point? A. Yes, sir.

Q. When you came back,—you say you went on to Tacoma and then returned? A. Yes, sir.

Q. Where did you pass him then?

A. Just abreast of Robinson's Point, on the Tacoma side.

Q. That is this way from Robinson's point a little?

A. Yes.

Q. On which side did you pass him then?

A. Passed his starboard.

Q. Did you pass between him and Robinson's Point? A. Yes, sir.

Q. How near to him?

A. Probably one hundred feet or more; well, hailing distance; I talked to him.

Q. He said he was getting along all right? A. Yes.

Q. You stopped to inquire?

A. Oh, yes, I stopped, sure.

Q. When you saw him each time, he was just about abeam of you? A. Yes, sir.

Q. That is the Strathalbyn? A. Yes.

Q. Both times, when you passed him first, and the second time, off Robinson's Point? A. Yes.

Q. You saw his lights when you had him nearly abeam, and the last time you stopped and talked to him?

A. Yes; I talked to him both times.

Q. Now going back: When you first saw the Strathalbyn, how much was she off your port bow?

A. Oh, I guess she was about two points.

Q. Off your port bow? A. Yes, sir.

Q. You have testified here, as I understood, when you had her abeam, in passing the Strathalbyn the first time you thought she was not over two or three hundred feet off. Before the inspectors you gave your testimony, did you not?

A. Yes, and I want to say the same here as there.

Q. But I want to call your attention to this, to aid your present recollection? A. Yes.

Q. You were asked by one of the inspectors this question: "Did I understand you to say you thought it was about a half a mile away when you were abeam of her?"

A. Oh, well, that is astern, as to that distance.

Q. In this testimony, before the inspectors, you gave this testimony: "Which direction was the Strathalbyn from you when she was first reported to you?"

A. She was about two points on the port bow; two points and a half. Q. About two points? A. Yes, sir."

How far ahead do you think?

MR. HAYDEN: I object to this as leading and suggestive, and not proper cross examination; attempting to read something into this record, without giving the captain a chance to testify.

MR. HUGHES: Now with the understanding that the objection may run, and in order that the question may be complete, I want to call your attention to testimony given and then propound a question based upon it.

Q. You testified before the inspectors, did you not, as follows:

"Q. Which direction from you was the Strathalbyn when she was first reported to you? A. She was about two points on the port bow, sir; two points and a half. Q. About two points? A. Yes, sir. Q. And how far ahead do you think, how far ahead of the Virginian or yourself at the time did you pass the Virginian? A.

How far was the Strathalbyn off? Q. Yes, how far away was the Strathalbyn? A. Well, I should judge she might be about a mile and a half or more. Q. You don't remember just,— A. No, sir. Q. (Continuing) what time you passed the Strathalbyn and just what time you passed the Virginian? A. I know what time I passed the Virginian. Q. You knew that because you took your time there at Pully? A. Pully Point, yes. Q. But you would not know just what time you passed the Strathalbyn? A. No, sir. Q. You think she was off about two points on your,— A. On our port bow, yes, sir. Q. And you did not swing back to your course to parallel them, but kept off,— A. Clear. Q. (Continuing)—more to the right? A. Yes, sir. Q. Now did I understand you to say that you thought she was about half a mile away while you were abeam of her. A. Which, the,—Q. The Strathalbyn? A. Yes, sir. Q. And even there you could not see her red light? A. No, sir." Now is that correct?

A. That is right. Positions, a man cannot judge.

Q. On a dark night of that kind, it would be next to impossible to estimate distances with any degree of certainty, wouldn't it? A. Yes, sir.

Q. Did it rain shortly after that?

A. Yes, I don't know how long after, but it was raining when I got back.

Q. About how far ahead of you and off your port bow would you say the Strathalbyn was when you first saw her that night?

A. I could not judge that; it was quite aways, probably a mile, mile and a half or more; I could not say how far, from the time I first saw her until we met. I saw her when we passed Pully Point. That is why I kept on my course, to clear him.

RE-DIRECT EXAMINATION.

(By MR. HAYDEN.)

Q. You said in response to Mr. Hughes' question that you were watching the Virginian when they came together. Did the Virginian appear to swing to the eastward?

A. I could not say I saw them; I saw them afterwards. I did not see them come together.

Q. But at the time you were looking at the Virginian, did she appear to swing to the eastward?

A. I could not say; I did not pay much attention. When I looked back, the only thing was to get back there.

Q. You say at the time you got back to the Strathalbyn and the Virginian they were lying practically on parallel courses?

A. Pretty near, as far as I could judge.

Q. In what direction were the vessels headed at that time?

A. They were headed I guess about north, north-east; something of that kind; both.

Q. When you met the Virginian and you say you saw her on the course which you have indicated on this Respondent's Identification Number 2; that course is approximate is it? A. Yes, sir.

Q. You would not say it was accurate?

A. No, I would not say it was accurate, but she must have had some reason for heading that way.

Q. If he had ported his wheel when he blew his signal to you, that would probably account for it?

A. Yes, sir.

MR. HUGHES: How is that?

A. He asked me if he had ported his wheel for me, if that would account for his position, and I say that might account for it, but I do not know of course what he might do.

Q. (MR. HAYDEN) Do you remember telling Captain Beecher and myself that you noticed the Virginian, and she appeared to be swung to the east just before the collision, when coming over on the Flyer a few days after the collision?

A. I don't know. I don't remember anything of the kind.

Q. (MR. HUGHES) I wish you would examine this statement and say if it was made by you and signed and sworn to by you?

A. Well there is some mistake there somewhere.

Q. That is your signature? A. Yes, sir.

Q. You signed it? A. Yes, sir.

Q. Where is the mistake? A. Here (indicating).

Q. Well, that was the statement you made, wasn't it? (No response.)

Q. You read that over and signed and swore to it?

A. Yes, sir.

MR. HUGHES: I offer the statement.

WHEREUPON said document was marked as Respondent's Exhibit Number 2.

Q. (MR. HAYDEN) Is there anything wrong with this statement? A. I don't think so.

Q. But you said to him that there was something incorrect?

A. Yes, at the bottom, I don't remember seeing that about the deck load, and not seeing the lights.

Q. Read the part you consider wrong?

A. About the deck load of lumber on the forward deck, and extending out to the rail on either side, and "range lights on the Strathalbyn were dim, being well off, was not able to see them prior to the time the Flyer gave the passing signal ahead."

Q. Is that incorrect?

A. Well, I don't remember making such a statement as that. I don't know anything about her deck load or anything of the kind.

Q. And you never did know?

A. No; I could not see the ship's deck.

Q. Did you read it over carefully?

A. Well I don't remember seeing that, or seeing anything like that. I did not know anything about the deck load. I could not see it before I got to the ship.

Q. You did not read it over carefully before you signed it, did you?

MR. HUGHES: That is objected to as leading?

A. Well if I did, I would contradict that.

RECROSS EXAMINATION.

Q. (MR. HUGHES) When you came back to the ship, you came up to within fifty or seventy-five feet?

A. Yes, sir.

Q. And then you could see that she had a deck cargo? A. Yes, sir.

Q. A high deck cargo forward? A. Yes, sir.

Q. And that is what you say here?

A. Yes, but not when I first came up.

Q. Well, that is not what is said?

A. That is the way it seemed to me.

Q. If you observe, it says after the collision you hailed the Strathalbyn, coming up on the starboard, and saw the dim starboard light and saw the high deck load of lumber on the forward deck?

A. Oh, yes, that is all right, but when I came up on her I didn't see the light; I saw the ship's lights along way ahead, before the passing signal.

Q. It does say here that the lights were dim and they were well off? A. They were a common oil light.

Q. (MR. HAYDEN) And they appeared just like the common ordinary oil light?

A. Yes, sir, just the same. I did not want to say anything here that I did not know anything about.

(Witness excused.)

MR. WALTER S. MILNOR, a witness called and sworn on behalf of the libelant, testified as follows:

DIRECT EXAMINATION.

Q. (MR. HAYDEN) What is your name?

A. Walter S. Milnor.

Q. What has been your business, Captain?

A. Licensed master of ocean going vessels.

Q. How old are you now?

A. I stopped having birthdays at fifty; I am over fifty.

Q. How long have you been going to sea?

A. I was 32 years at sea.

Q. Were you on the steamer Flyer on the night of the collision between the Virginian and the Strathalbyn?

A. I was.

Q. Will you tell us what you saw and heard in connection with that collision, in your own way?

A. I was seated in the cabin of the Flyer, on the starboard side, abaft the midships, when I heard her blow one whistle. I had been reading a paper and was just about through. On hearing this whistle I leisurely folded up the paper and put it in my overcoat pocket, and leaving my coat in the seat went out on the port side of the Flyer to see what we were passing. We then had overhauled the Virginian and were passing. I then

heard one whistle from another vessel which the *Flyer* answered. On account of my position which was abaft the midships, all about midway between the midships and port quarter of the *Flyer*, my view and idea of directions and distances may not be accurate. Another thing, I came outside the cabin into the darkness with my eyes blinded to some extent by the cabin lights, and although I tried to see, my vision was to some extent affected by the lights shining from the cabin windows; so that as to what I subsequently saw, I can only testify to my best impression, judged from the adverse circumstances under which I was viewing the thing.

Now, for instance, regarding the distance from Pully Point, I thought as I came out that the *Virginian* was standing about three-quarters of a mile off the point, and we were about three-eighths of a mile from the *Virginian*, diverging—we were on a divergent line from that of the *Virginian*, divergent to the route; we were going starboard under port helm.

At the time I first heard the *Strathalbyn* whistle I judge we had the *Virginian* about three-eighths of a mile on our port quarter, and the *Strathalbyn* half a mile on our port bow. From my point of view, she would show a greater distance, that is more points off on our port bow than actually would appear from the pilot house of the *Flyer*. We answered the *Strathalbyn*'s whistle and then heard another whistle from the *Strathalbyn*, evidently intended for the *Virginian*. It is pretty hard to keep from getting confused under circumstances of that kind, but to my best recollection and impression, the *Strathalbyn* gave three distinct port whistles for the *Virginian*, none of which were answered; then came about seven short whistles, two or three more from one boat and four or five from the other, and then the crash. As near as I can judge now, I should say there was about three minute interval from the time we heard the first signal of the *Strathalbyn* for the *Virginian* until the crash. Immediately following the crash I went up to report to Captain Burns that I was on board, and if he needed me to call on me. As we approached or drew nearer the *Strathalbyn*, before the collision, I saw two white lights, but one of

those lights was low down on the water, and I think—but you don't want what I think—at least I saw no port light. After we hauled around and drew near the Strathalbyn, we came on her starboard side.

MR. HUGHES: After the collision?

A. That is after the collision. We turned around to go back, and Captain Burns asked if she needed assistance and they replied that they did not think so. At that time, her starboard light and mast light were burning with ordinary brilliancy. We hauled alongside the Virginian and asked her if she needed help, and she replied that she did not. Her lights were burning brilliantly. We then overhauled the Strathalbyn again and got the word back that they were going to try to make Tacoma, and did not think they needed any help. They also asked what vessel ran into them. When we drew up alongside the Strathalbyn the first time, I noticed she had a deckload of lumber forward between her fore-castle head and her bridge.

MR. HUGHES: That is after the collision?

A. Yes, after the collision.

When we hauled alongside again I got a closer view of the lumber and noticed that this deckload of lumber appeared to be within six or eight inches of her bridge deck, and some stanchions holding the lumber ran from,—well, it would be impossible to say, but my impression would be from fourteen to eighteen inches above her deck load.

When we ran alongside the second time, she was in the neighborhood of Robinson's Point and had a heavy list,—it must have been seventy degrees to starboard. The collision actually occurred at exactly 8:05 by Seattle time, and approximately midway between Pully and Robinson's Point. When the crash occurred I hauled out my watch and held it up by the window of the cabin to see exactly the time. I was carrying Flyer time,—Seattle time.

(BY MR. HAYDEN)

Q. You were accustomed in your previous experience as a master to the use of oil lamps for signal lamps?

A. Yes, sir.

Q. Were these lights you saw, the masthead light,

burning with the ordinary brilliancy of an oil lamp?

A. I thought so; the masthead light and the star-board light. I did not see the port light. The second light which I saw I think came from the forecstle, shining through one of the foc'sl ports. There were two white lights and I think one shown from one of the foc'sl ports.

Q. I do not think you have given us your idea of the distance between the Strathalbyn and the Flyer at the time you heard the whistles?

A. Taking the line on which the Virginian and Strathalbyn were steaming, and taking the line on which we appeared to be steaming, from my point of view I would judge we were about three-eighths of a mile to the starboard of them.

MR. HUGHES: Q. That is of the line of the other two ships?

A. Yes, sir. The night was very dark, no fog, rain beginning to fall while I was still on deck, about the time we were overhauling the Strathalbyn the second time.

Q. About what time was that; you mean when the two vessels were near together?

A. We only hailed the Strathalbyn then; I mean the second time we hailed her, after the collision.

Q. You were not aboard of the Flyer when she went back?

A. No, sir, I was not aboard of her on her return trip to Seattle.

Q. Do you remember having seen the Virginian about the time of the accident,—just prior to their coming together?

A. I saw her when we had overhauled her.

Q. Did you see her before the two vessels came together? A. Yes.

Q. Did you notice the Virginian and whether she was swinging?

A. I could not tell whether she was siwnging or not. We ourselves were going on a divergent line, and it would be impossible almost to tell. The fact of our being divergent from theirs would cause lights,—the relative position of her lights to vary to our vision, and

whatever impression I may have had at the time or might have subsequently formed, could not have been based on any actual view of her change of course.

Q. When you passed the Strathalbyn, how did her course appear to you to be; did it seem to be about parallel?

A. I do not know what course she was steering.

Q. You could not tell that from your position?

A. Oh, no, I could not tell that. Had I been in the pilot house throughout the whole voyage or for some time before they came together, my testimony may have been different, but I am telling what I saw from a disadvantageous position in which I was standing.

CROSS EXAMINATION.

(BY MR. HUGHES)

Q. They have asked you whether the Virginian appeared to be swinging. Now as a man of experience in navigation I want to ask you this question. If two vessels are approaching each other in a dark night, and one should keep its course and the other should swing on her helm, either to port or starboard, it would be very difficult for any onlooker from another vessel, or even from one of those vessels, to see from merely looking which ship changed its course?

A. Yes, sir, very difficult.

Q. A person for instance on a ship that was changing its course, not knowing that the helm swung, might assume that the other ship changed?

A. Yes, sir, just like sitting in a train, you may be stopped and another train pull out and you don't know which train is moving.

Q. Was the Strathalbyn about or nearly abeam of you when she gave the first of those port vessels; you say you heard two given for the Virginian?

A. No, sir, she was if I remember correctly,—she seemed to be about half a mile on our port bow; that is taking two parallel lines that each was sailing, there was an actual distance of about a half a mile between our bow and her bow.

Q. She was far enough advanced on her course, near enough opposite you, so that it was apparent to

you and would be to any one else that her whistle was not intended for the Flyer. A. Yes, sir.

Q. And would be intended for the other vessel whose lights were behind?

A. Yes, sir. We had already answered her signal.

Q. And had advanced far enough on your opposite course so that she would have no occasion to blow for you?

A. It was my belief she was signaling the Virginian.

Q. About how far would you say she passed off your port side? A. Three-eighths of a mile.

Q. You think that much?

A. I think so, yes. You understand in my coming out from a brilliantly lighted cabin, and I am testifying under a disadvantage.

Q. I understand that of course. You would not be able to estimate distance with the same degree of accuracy as if you had looked out from the darkness. That would affect your ability to estimate distances, but after once picking up a light, you would have no difficulty from that time in seeing and following the light? A. Not a bit.

Q. In your position as a navigator, where you were, you should have seen her port red light if it were burning in the proper place?

A. I should have seen it unless my eyes were too badly blinded by the light from the cabin windows. Between my range of vision and the Strathalbyn these cabin lights were shining through the window.

Q. You were outside? A. Yes, sir.

Q. And the lights were behind you?

A. Not before the collision.

Q. As the Strathalbyn passed by you, she passed on your port side? A. Yes, sir.

Q. You were standing on the port deck and the lights were behind you?

A. Oh, yes, I understand. I did not see her port light.

Q. Another thing I want to ask you as an experienced navigator; you could see the red light under such

conditions than a white light; you would have less difficulty in seeing a red light than a white light?

A. I don't think so. I think the white light is visible at a greater distance than a red light.

Q. That is if its power is the same, but the red light would be more easily discerned with the same power and at the same distance than the white light?

A. I do not think so.

Q. Isn't the use of the green and red light partly because they will attract attention at sea in the darkness.

A. In approaching a vessel at sea we always pick up her masthead light before we pick up her sidelights.

Q. Because it is a more powerful light?

A. Not necessarily.

Q. But generally?

A. I do not know it. I have many times seen the founts and burners interchanged.

Q. Do you remember what the regulation required, as to distance at which the masthead light shall be visible?

A. I won't be sure whether it is two miles or not; I have a copy in my office.

Q. Isn't it five? A. That may be.

Q. Do you remember the distance at which the red and green lights are required to be visible?

A. I do not know now.

Q. That is three, isn't it? A. I do not know.

Q. Or rather two miles?

A. It is two miles for the sidelights and five for the headlight.

Q. Your statement has been a very clear one and I think an impartial one,—attempted to be, and I do not care to take a long time in cross examination. There are probably one or two matters covered in this statement here, not fully covered in your examination. I will ask you whether this statement was dictated by you and is correct. I am not suggesting that it offers any conflict, but it may cover some matters and may save my cross examination of you.

A. That is correct I think,—to the best of my recollection it is.

MR. HUGHES: I offer it.

MR. HAYDEN: We object as not being proper cross examination, or the proper method of impeachment, if any is intended, and as incompetent, irrelevant and immaterial.

MR. HUGHES: That is not the intention.

Whereupon said document was marked Respondent's Identification No. 3.

(Witness excused.)

Whereupon an adjournment was taken until 1 p. m. 1 o'clock P. M. Wednesday, February 14, 1912.

STIPULATION.

It is stipulated between the parties hereto that the signatures to the depositions or testimony taken before he Commissioner, or any Notary Public, in the presence of counsel for the respective parties, whether heretofore taken or hereafter taken in this proceeding, are hereby waived, and the transcript of their testimony filed herein shall be received and considered as their evidence.

MR. WILLIAM J. WARD, a witness called and sworn on behalf of the libelant, testified as follows:

DIRECT EXAMINATION BY MR. HAYDEN.

Q. What is your full name?

A. William John Ward.

Q. How old are you? A. Thirty-two.

Q. What is your business?

A. Contractor and carpenter; at the present time I am deputy sheriff of King County.

Q. Where do you live? A. At Three Tree Point.

Q. Were you living there on the night of the collision between the Strathalbyn and the Virginian, that is January 12th? A. Yes, sir.

Q. How long have you been living at Three Tree Point. A. Three years the 29th of this July.

Q. Are you familiar with the steamers Flyer and Indianapolis so that you can distinguish their lights and tell those boats on seeing them at a distance?

A. Yes, sir.

Q. On the night of this accident, did you see the lights of the Flyer and the lights of the Indianapolis?

A. Yes, sir.

Q. State in what position those lights were when you saw them?

A. The Flyer was about, I should judge about 12 minutes off the point towards Seattle, and the Indianapolis about 15 minutes off towards Robinsons Point.

Q. Did you see the lights of any other vessels in company with the Flyer? A. Yes, sir.

Q. Coming up towards the point? A. Yes, sir.

Q. Did you see the lights of another vessel in company with the Indianapolis coming towards Three Tree Point? A. Yes, sir.

Q. What lights did you see upon the vessel coming towards Three Tree Point in company with the Indianapolis. A. Just an ordinary white mast light.

Q. How did that light appear?

A. About the same as the Indianapolis light.

Q. Where would you say that light was with respect to its location between Pully Point and Robinson's Point?

A. I would say it was five or six minutes off Robinson's Point. It takes about twenty minutes across there for the boat; I don't know the distance; but somewhere near 15 minutes off of Three Tree Point.

Q. From what place did you see these lights?

A. From the Three Tree Point light, the Government light there.

Q. Was anybody with you at the time.

A. My wife.

Q. And at about what time was this?

A. At about 7:45.

Q. Did you see the collision? A. No, sir.

Q. Did you hear it? A. Yes, sir.

Q. Where were you when you heard it?

A. We were in the house.

CROSS EXAMINATION BY MR. HUGHES.

Q. Are you the light-house keeper? A. Yes, sir.

Q. You live there at the point? A. Yes, sir.

Q. When you saw these lights you have spoken of, you and your wife just happened to be outside of the house, I take it?

A. It is quite a frequent happening of ours to take a walk out on the plank walk in the evening.

Q. That is, you were outside and you did not see them from in the house? A. No, sir.

Q. Afterwards you went in the house?

A. Yes. We noticed them on account of the four boats, two from each way. That is what made us take notice of the lights.

Q. You looked towards Seattle and saw two ships coming. A. And two coming from Tacoma.

Q. And you looked towards Tacoma and saw one that you took to be the Indianapolis?

A. I knew it was the Indianapolis.

Q. You could tell from the lights of her cabin?

A. Yes, sir.

Q. And another, you saw one bright white light, masthead light, that was apart from the Indianapolis?

A. Yes, sir.

Q. Which way was she, behind or ahead of the Indianapolis?

A. It seemed like the Indianapolis went behind and was out of sight for an instant.

Q. In other words, while you were looking, this white light you saw must have been, when you first saw it, ahead of the Indianapolis? A. Yes, sir.

Q. But you cannot tell how far? A. No.

Q. But you say that boat was the one with the light?

A. Yes, sir.

Q. You had seen the lights of the Indianapolis behind it, and then for a little they were obscured.

A. Yes, sir.

Q. Did they show up again before you went in?

A. No, sir, just the bow lights on the Indianapolis; just the cabin lights, you could see them.

Q. At the time you noticed them, the Indianapolis was behind the other ship? A. Yes, sir.

Q. Of course under those conditions it would be impossible for you in the darkness of the night to estimate with any degree of approximation the distance?

A. Yes, the distance I would not say, only from the time that the "Indian" passed the point. It was about 15 minutes until the "Indian" passed the point.

Q. Did you notice the Strathalbyn and the Virginian when they passed the point?

A. Yes. They generally passed on this side of the point coming towards Tacoma, and they did not pass so far over that night.

Q. Did they pass the Point before the Indianapolis?

A. Yes, sir, the Flyer,—the Flyer was coming by the point before the Indianapolis was there.

Q. The Flyer then passed probably three minutes before the Indianapolis?

A. I would not want to judge the time. I heard the waves as they washed the shore.

Q. Did you see them? A. I noticed the Flyer.

Q. Did you notice the Indianapolis?

A. No, but I noticed the Flyer, because we generally checked our time by the boats as they passed.

Q. Did you see the Virginian at that time?

A. Yes, sir.

Q. Where was the Flyer with reference to the Virginian when you took the time?

A. I did not notice how far off the Virginian was; not far off the point.

Q. She was behind the Flyer at the time?

A. Yes, sir.

Q. Do you know how much?

A. No, sir, I would not judge the distance at all.

Q. Which boat was the furthest off?

A. I don't know; I didn't notice that, no, sir.

Q. Well, you went back inside and saw no more?

A. Yes, sir, we saw no more.

Q. Do you know what you were doing between the time you and your wife were walking outside, when you saw these lights of the four ships, two on the north and two on the south of the Point, and the time afterward when you checked your time up by the passing of the Flyer?

A. We just walked back; it is about forty rods out there.

Q. You walked back and went in the house?

A. Yes, sir.

Q. You were not doing anything in particular?

A. No, sir.

Q. Ten or fifteen minutes intervened?

A. Yes, sir.

Q. And do you recollect what you were doing during that time?

A. Only that we walked back and went into the house.

Q. Engaged in ordinary conversation?

A. Yes, sir.

Q. Nothing unusual? A. Oh, no.

Q. Nothing to impress the time or circumstances on your mind as distinguished from any other similar case? A. No, sir.

(Witness excused.)

MRS. FRANCIS MAY WARD, a witness called and sworn in behalf of the libellant, testified as follows:

DIRECT EXAMINATION BY MR. HAYDEN.

Q. What is your full name? A. Francis May.

Q. Your husband was just on the stand?

A. Yes, sir.

Q. How long have you been living at Three Tree Point? A. Three years.

Q. And you were out on this wharf on the night of the collision between the Strathalbyn and the Virginian. A. Yes, sir.

Q. Did you see the Flyer and the Virginian approaching from the north, and the Indianapolis and the Strathalbyn approaching from the south? A. Yes, sir.

Q. Now you have lived there long enough and seen the Flyer and the Indianapolis pass at night often enough to know them at a distance? A. Yes, sir.

Q. How far away would you say the Indianapolis and the Strathalbyn were when you observed them, from Pully Point? A. About fifteen minutes or so.

Q. And how far would you say the Flyer and Virginian were away from Pully Point at the time?

A. About the same distance the other side.

Q. How did you happen to notice these four vessels that night?

A. We saw the lights coming, two going one way and two the other; we saw the mast lights; happened to notice them.

Q. The four vessels approaching attracted your attention? A. Yes, sir.

Q. How did the mast-head light on the vessel that was in company with the Indianapolis appear to you?

A. It seemed to be brighter than the other; I suppose it was the larger.

Q. Brighter than the Indianapolis? A. Yes, sir.

Q. That is all the lights you saw on the Strathalbyn, the one masthead light? A. Yes, sir.

Q. And you simply noticed the masthead light of the Indianapolis and her cabin lights?

A. That is all I noticed.

Q. You did not notice any of the side lights on either vessel? A. No, sir.

CROSS EXAMINATION BY MR. HUGHES.

Q. What were you doing at the time, Mrs. Ward?

A. We just walked out to the Government point light, my husband and I.

Q. How far is that from your house?

A. About forty rods or so; I don't know just how far.

Q. Were you walking back from the light?

A. We had just got out there.

Q. When you happened to look north and saw what you knew to be the Flyer? A. Yes, sir.

Q. And you saw another vessel? A. Yes.

Q. What lights did you see on the other vessel?

A. Just the mast lights on both.

Q. You could see the cabin lights on the Flyer?

A. Yes, I could notice those.

Q. Did you immediately afterwards look the other way towards Tacoma? A. Yes, sir.

Q. Did you and your husband comment on the fact?

A. No, I don't know as we did, but I spoke about the two boats in both directions.

Q. When you looked towards Tacoma how did you know it was the Indianapolis?

A. I know that boat, the size and her general looks.

Q. Well, what was there about it?

A. And it passes about that time.

Q. It was about time for it? A. Yes.

Q. That was one reason you knew? A. Yes, sir.

Q. Was it because of the cabin lights that you saw at that distance which helped you to identify it?

A. I noticed the other lights first.

Q. The masthead lights? A. Yes.

Q. Did you notice the green or red light?

No, sir, just the white light.

Q. Which light did you see first, the masthead light or the Indianapolis or the other?

A. I just saw one; it seemed to be lower than the other.

Q. Which one seemed to be lower?

A. The one on the left side.

Q. In other words, that is lower than the Indianapolis?

A. Lower than the other boat; I don't know which one.

Q. But you knew which had the cabin lights?

A. I noticed the lights before I noticed the cabin; it would be the Indianapolis I saw first.

Q. Then you saw the cabin lights of the Indianapolis. A. Yes.

Q. And then after that you saw the white light which you took for the masthead light on another boat?

A. Yes, sir.

Q. That was off to the left of the Indianapolis?

A. I don't know which side; I just noticed the lights; I didn't pay any attention to which side.

Q. Did the Indianapolis appear to be hidden for awhile, or her lights?

A. Just when it passed the other vessel.

Q. So that there was a time when you lost the cabin lights of the Indianapolis? A. Yes, for a moment.

Q. Hence, you think now when you saw the other light, the ship that was carrying it was ahead of the Indianapolis? A. Yes, I think so.

Q. All you saw of course was that solitary white light which you took to be the masthead light of the ship? A. We saw the two.

Q. I mean of this other ship? A. Yes, sir.

Q. All you saw of the other boat was the white light?

Q. And that is all you had to reach the conclusion from that it was another boat?

A. That is all I noticed, was that one light.

Q. Was it lower or higher than the masthead light of the Indianapolis?

A. It seemed to be higher; I think so; it might have been the distance between the vessels that made it look that way.

Q. It might have been enough nearer to appear to be higher? A. Yes.

Q. You could not tell in the darkness anything about the distance of the one white light? A. No, sir.

Q. Immediately after that, did you turn and walk back, or did you remain there?

A. We turned around and walked home.

Q. And you had no conversation about these lights?

A. No, we did not mention them any more.

Q. Or anything about the circumstance that attracted your attention. A. No, sir.

Q. You walked directly to the house? A. Yes, sir.

Q. Went in the house? A. Yes, sir.

Q. How long had your husband remained in the house before he went out onto the dock again?

A. About ten minutes, ten or fifteen; I did not notice how long; I did not notice the time.

Q. There was not anything that occurred in that ten minutes to fix your memory by; nothing to impress on your mind the lapse of time? A. No, sir.

Q. You didn't go out the second time and see the Flyer? A. No, sir.

Q. When you were standing out on the dock, did you see Robinson light? A. I didn't notice it.

Q. You know where it is?

A. Yes, but I did not notice.

Q. You would not know whether the lights you saw were between where you were and the Robinson light?

A. I knew it was between.

Q. You mean in the line between?

A. Yes, it would be about the same, it looked that way.

Q. But you did not observe the Robinson light?

A. No, I did not pay any attention to it.

(Witness excused.)

CAPTAIN H. F. BEECHER, a witness called and sworn in behalf of the libelant, testified as follows:

DIRECT EXAMINATION BY MR. HAYDEN.

Q. Captain, what is your full name?

A. Herbert Foote Beecher.

Q. How old are you? A. Fifty-seven years.

Q. How long have you been following the sea?

A. Thirty-one years on Puget Sound, and about eight years on the Atlantic.

Q. You hold a regular master's license?

A. Yes, sir.

Q. And pilot license? A. Yes, sir.

Q. How long have you held a master's and pilot's license? A. On Puget Sound, 31 years.

Q. You have been engaged as pilot for how long?

A. Practically all that time.

Q. What vessels and lines of vessels do you have to pilot at this time?

A. I pilot the vessels employed by the American Trading Company, Hind-Rolph Company, San Francisco, and occasionally do some for the J. J. Moore & Company's vessels, and such other vessels as come in free, not employed on time charter by other firms.

Q. You make it your business to act as pilot for vessels on Puget Sound?

A. Yes, sir, that is my business.

Q. Running from the straits to Tacoma and Seattle and other places? A. Yes, sir.

Q. Were you pilot on the steamship Strathalbyn on the night of the collision with the Virginian?

A. I was.

Q. Did you take charge of her at the port of Tacoma? A. Yes, sir.

Q. Were you on the bridge at all times from the time she left Tacoma until after the collision?

A. Yes, sir.

Q. And until she returned to Tacoma and tied up?

A. Yes, sir.

Q. When you left the Port of Tacoma, were her side lights, mast head light, burning? A. They were.

Q. Do you know what kind of lights they were?

A. Oil.

Q. Where was the mast-head light positioned?

A. Forward part of the foremast, in front of the cross-trees.

Q. And the side lights were positioned where?

A. On the lower bridge, one on each side, in the usual places.

Q. What cargo did the Strathalbyn carry?

A. Lumber.

Q. Did she have a deck load forward and aft?

A. She did.

Q. Leaving the port of Tacoma did anything unusual occur until after you had passed Robinson Point?

A. Nothing that I know of, no, sir, except that we met several vessels.

Q. Where did the steamship Indianapolis overhaul you on its way to Seattle from Tacoma?

A. Shortly after we had rounded Robinson Point.

Q. She passed you on what side?

A. On our starboard side.

Q. How far were you from Robinsons Point at that time?

A. I don't think we were more than five minutes past it; I could not say as to the distance.

Q. Did you observe the time that it took to go from Tacoma to Robinson's Point on the Strathalbyn?

A. I did, yes, sir.

Q. What rate of speed was the Strathalbyn making this night? A. About six knots, sir.

Q. When you came to Robinson's Point how far off the point did you pass it?

A. I should judge a quarter of a mile.

Q. When you were turning the point, did you notice the lights of any steamers ahead? A. I did, sir.

Q. Could you tell at that time what steamers they were?

A. I did not know; I knew the Flyer was due but I could not say whether one of them was her or not.

Q. It was time for you to meet the Flyer about there?

A. We generally meet the Flyer and Indianapolis between Robinson and Pully, whichever way I happen to be going.

Q. Where did the lights seem to be with reference to Pully Point?

A. They seemed to be off of it, and I judge the other side of it.

Q. Did you notice any manoeuvres of the vessels carrying the light?

A. I saw one ship on the inside disappear and then go on the other side of the other ship, whichever it was.

Q. What did that other ship eventually prove to be, the one that went around?

A. That was the Flyer.

Q. And the other ship was what?

A. I did not know at that time what it was; it turned out to be the Virginian.

Q. You could see the lights at Pully Point?

A. Yes, sir, plainly.

Q. What kind of a night was it?

A. A medium dark night; not excessively so.

Q. What kind of a night with respect to seeing the lights? A. A beautiful night.

Q. The lights plainly visible? A. Very.

Q. Clear atmosphere?

A. For a cloudy sky, yes, sir.

Q. Did you pass the steamer Flyer between Robinson and Pully Point? A. I met her, sir.

Q. Did you give her a passing signal?

A. I blew one blast, sir.

Q. And did she give you a passing signal?

A. She answered it, yes.

Q. How far in your judgment was she from you at the time she answered it.

A. Between a half and a quarter of a mile.

Q. Did you see this other vessel approaching at that time? A. I did, sir.

Q. What did you do if anything at the time you whistled to the Flyer, with respect to steering your vessel?

A. I did not do anything with her, sir, that is with the Flyer.

Q. But with your vessel. A. Not anything.

Q. Did you give any passing signal to the Virginian? A. I did, sir.

Q. When you gave the first passing signal to the Virginian, in what position did the Flyer appear to be from you, if you remember?

A. Shortly after my whistle, about my beam; I did not look to see her after she had gone by; I had my eye on the other ship coming.

Q. You gave the other ship one whistle?

A. One blast, yes, sir, and ported my helm.

Q. At that time you ported your helm.

A. Yes, sir.

Q. Prior to your signal to the Flyer, did you notice the lights on the other vessel? A. Yes, sir.

Q. What lights did you see?

A. A mast head and range lights; a red and green light.

Q. From what position did those lights appear to you? A. A little bit ahead and a little on my port bow.

Q. When you gave your first whistle to the Virginian, were those lights in the same position?

A. They were, sir.

Q. Did you get any answer from the Virginian to your first whistle? A. I did not.

Q. How long after the first whistle before you blew again to the Virginian?

A. I should judge a minute; sufficiently long to give him a chance to answer my first whistle.

Q. Did the Virginian answer that?

A. She did not.

Q. At the time you blew your second whistle, did you observe the lights of the Virginian? A. Yes, sir.

Q. How did they appear?

A. The red light was getting dimmer, and I stopped the ship.

Q. You stopped the Strathalbyn?

A. I stopped the Strathalbyn; I rang the telegraph to stop; I should not have said I stopped the ship.

MR. HUGHES: You stopped the engine; of course the ship would not stop? A. That is it.

(BY MR. HAYDEN)

Q. Did the Virginian at that time answer your second whistle? A. She did not.

Q. On your second whistle, did you do anything towards steering the Strathalbyn?

A. I ported the second time, sir.

Q. Did you observe at the time of the second whistle what was occurring to the Virginian's lights?

A. I could see by her range lights that she was opening her range lights and closing her red.

Q. Explain that?

A. The range light was on the main mast, and masthead light on the foremast. We call them range lights. The first time she was end on, or nearly so, and the range lights were in line, and her red and green plainly visible, but the second time I blew my whistle, the range lights had opened a little, by partially closing, but had not obscured the red entirely. I blew my second whistle and ported, and stopped the engines.

Q. After that what did you do again?

A. I waited approximately about a minute, I should judge, and blew my third whistle with no answer.

Q. That is the Virginian did not answer you?

A. No, sir.

Q. Did you do anything towards steering your vessel?

A. I ported; the ship was still swinging; she had no headway to be controlled by the rudder. Seeing nothing but the green light and the range lights opening very broad, I blew the danger whistle and run full speed astern.

Q. Did you get any answer from the Virginian to your danger whistle? A. She blew three blasts.

Q. About how long after you had given her the danger whistle did she blow those three blasts?

A. Probably a quarter of a minute or half a minute; something like that; I could not tell exactly.

Q. How long after she blew the three blasts before you came into collision?

A. It was very shortly after that, sir. Everything was rapid; she was going so fast that everything was so quick you could not take the time. I was thinking of something else besides time then.

Q. When you blew your first signal to the Vir-

ginian, how far apart would you say the Strathalbyn and the Virginian were from each other?

A. Well it is hard to say; I would say from three-quarters of a mile to a mile.

Q. What course did you take with the Strathalbyn from Robinson's Point to Pully Point?

A. Northwest half north magnetic.

Q. At about what position between Pully Point and Robinson's Point did the collision occur?

A. I should judge a mile this side of Pully Point, to the southerly.

Q. What did you observe as to the effect of this collision immediately that it took place, when the two vessels came together?

A. Well there was a terrific blow. Our boat listed and swung still further to port. It seemed as if the Virginian run on top of us and crushed down.

Q. You say, swung to port?

A. Swung to starboard I should have said. It seemed as if the Virginian rose right on top of us and crushed us right down.

Q. What was the effect of the contact; did it make any fireworks or anything of that kind?

A. Yes, sir, there was a pyrotechnical display for five or six feet up.

Q. You mean sparks? A. Yes, sir.

Q. What side of the Strathalbyn was struck by the Virginian? A. The port bow, sir.

Q. Do you know where they came into contact with each other?

A. At the moment I did not know where she struck, but afterward I noticed she struck just forward of the hawse pipe.

Q. Did you observe the steam of the Virginian after it struck you, as to whether or not it passed across your bow?

A. Yes, sir, she had passed our bow I would say 25 or 30 feet.

Q. She went as much as 25 or 30 feet across your bow?

A. Yes, sir, between her foremast and forecastle was up to our stem.

Q. When the Virginian and Strathalbyn came into collision, did you notice whether or not the Virginian was backing?

A. When he blew his three whistles in answer to my danger signal, I looked along the hull which was very plain, and I called attention that she was just beginning to back; the backwater was just getting back under his starboard quarter.

Q. When you ported your helm on the first whistle to the Virginian, at about what position, or which way was the Strathalbyn heading?

A. Just inside of Pully Point light; that light was upon my port bow about half a point.

Q. When you ported it the second time, in what direction towards the land was the Strathalbyn heading?

A. Pointing right into the bite, inside of Pully.

Q. And the third time?

A. Still further in, to the southerly and easterly.

Q. What was the angle at which the Virginian struck you when you came together?

A. It was not a right angle, but it was more over in that position (indicating); it was not an acute angle; it was almost right angle. I could not state definitely as to that. It was in the dark and you could not tell. I could see her hull very plainly coming along, long before she got to us.

Q. How long would you say the engines on the Strathalbyn had been stopped before you gave the reversing signal? A. Two and one-half to three minutes.

Q. How long would you say you had been reversing?

A. A minute or a minute and a half, perhaps more; I could not say definitely. I had no means of looking at the time then.

Q. Did you have occasion to look at the sidelights or masthead light on the Strathalbyn prior to this collision? A. I did several times.

Q. Tell what you did in connection with those lights, giving as nearly as you can in chronological order?

A. Meeting vessels going out of Tacoma harbor, I look at the lights myself, as is my custom on all these

vessels, and they were burning brightly. We met the Indianapolis at Brown's Point, and I looked at the lights again before we got to her, and they were burning brightly. The Queen came around just after the Indianapolis, as we rounded Brown's Point; my lights were burning brightly. At half-past six the lights were reported burning brightly. I looked at them again myself, as I take no man's word for it. At seven o'clock they were burning brightly, and I looked again, and at 7:30, they were reported. And when I blew my whistle at the Flyer, I looked over the side at my red light, and glanced across to the bridge and saw the green light reflection on the haze, and looked up to the masthead light and saw that it was burning brightly; and the same way when I blew at the Virginian, at each time.

Q. The lights were burning brightly?

A. The lights were burning brightly, yes, sir.

Q. Where were you standing when you looked at these lights?

A. At the time of the collision I was amidships.

Q. But when you looked at the lights?

A. At other times I walked back and forth on the bridge.

Q. On the flying bridge? A. Yes, sir.

Q. And the lights were on the bridge below you?

A. On the bridge below me, yes, sir.

Q. And you could see them from the navigating bridge, could you? A. Very plainly.

Q. Are you accustomed to meeting and seeing vessels, or being on vessels that use oil lamps? A. I am, sir.

Q. How would you say these lights compared with the light of oil lamps?

A. They were splendid lights. All the Strath line of lights are reputed among us pilots to be the best lights that come in here.

MR. HUGHES: I move that the last statement be stricken as hearsay and incompetent.

Q. Is it a custom in the shipping world for vessels to use oil lights?

A. Formerly it was, yes. They are getting out of use more and more now as electricity is coming in.

Q. Do you know of any big line of vessels which use oil lights?

MR. HUGHES: That is objected to as immaterial.

A. I cannot call to mind at present.

Q. How long before coming into collision with the Virginian did you look at the side lights of the Strathalbyn?

A. When I blew my first whistle I looked, and when I ported, and for my second whistle I looked at the red light. I did not pay any attention to the green, because I did not intend that she should see it.

Q. At the time you blew your first whistle to the Virginian and ported your helm, would your red light have shown up to her? A. Most assuredly, sir.

Q. Was there any time from the time you blew to the Virginian that your green light would have shown to her? A. No, sir, not after I ported.

Q. You say this vessel had a forward deck cargo of lumber? A. Yes, sir.

Q. How was that cargo of lumber held on the vessel? A. By stanchions; uprights.

Q. The stanchions were positioned how?

A. They were placed along the rail on either side from the bridge forward.

Q. Could you tell from your position whether or not those stanchions were inside the line of the port light?

A. They must have been; from the width of her bulwark rail.

Q. Did you observe the rays of the red light upon the stanchions? A. Indeed, sir, several times.

Q. State how they appeared?

A. They ranged right forward and touched three or four stanchions I noticed.

Q. On what side? A. Port side; the red light.

Q. I mean inside or outside the stanchions?

A. The outside stanchions, sir.

Q. It showed full on the first stanchion did it?

A. Yes, sir.

Q. And ranged along so that you could see,—

A. I could see the reflection of the light on three or four stanchions.

Q. Ahead of the first stanchion?

A. Yes, back to the foremast rigging.

Q. How high, compared with the house of the Virginian did this cargo come?

A. You mean the Strathalbyn?

Q. Yes. A. Just below the lower bridge.

Q. When you gave the Virginian the second signal and stopped her, why did you stop her?

A. Because I was heading into the beach too.

Q. And what did you have in mind when you stopped her?

A. There was shallow ground in there, and I was going very slow. We were not making half speed, and I did not know whether I could swing out if she did port, which I had every reason to believe she would.

Q. Up to the time you gave the danger signal, did you have any reason to believe that you were going to come into collision with the Virginian? A. I did not, sir.

Q. At the time you gave the danger signal was the position of the Virginian and the Strathalbyn such that the Virginian by acting promptly could have passed the Strathalbyn on the port side?

A. I think she could, sir. I see no reason why not.

Q. Did the Virginian's range lights continue to open up to the time of the collision?

A. Yes, sir, they were broad; almost parallel.

Q. Almost parallel?

A. They kept broadening; they looked parallel but of course they would not be.

Q. You mean right angles?

A. Well, she was coming at me almost at right angles. Her lights were broad like that (indicating).

Q. When you say her lights were broad, what do you mean?

A. The masthead and range lights were opened as if they were two individual lights.

Q. Well open? A. Yes, sir, well open.

Q. Which way would the Virginian be heading at that time with respect to the beach?

A. She would be heading into the beach too, sir, at the opposite angle to me.

Q. Will you take this chart and place on it your course,—Libelant's Identification B?

A. Yes, sir; that was the course from Robinson's Point.

Q. The long line in the shape of an arrow, with "Strathalbyn" written at the southerly end of it, is the course which you took going from Robinsons Point to Pully Point? A. Yes, sir.

Q. One of the witnesses for the Virginian testified that they were making a course southeast a quarter south, magnetic, and that they passed Pully Point a half a mile off. Will you please lay out that course on this chart? A. Yes, sir. (Indicates.)

Q. At the northern end of this line which you have just marked out as the course of the Virginian I will write, "Virginian."

How fast would you think the Strathalbyn was moving at the time of the collision?

A. She was practically at a standstill, sir.

Q. Did the Virginian appear to be moving at the time of the collision? A. She did, yes, sir.

Q. When the two vessels came together, did you notice any jar on the Strathalbyn?

A. Yes, and felt it too.

Q. Explain how that felt to you?

A. I was standing with my hand on the whistle rope, and the stanchion alongside of me, and my elbow on the telegraph, and it knocked me right up against it and skinned about a quarter's worth of skin off my elbow. It felt like,—I can't tell the sound and sight and everything; there was that grinding and crushing of the metal plates which were being torn and stripped from our ship.

Q. Didd you see the Strathalbyn after the accident?

A. Not immediately after; not until after we got to this port.

Q. Did you see her next day? A. Yes, sir.

Q. Did you observe any damage to her?

A. Yes, sir, considerable.

Q. What was the condition of her as far as damage was concerned?

A. From her port hawse pipe was bent completely

around, and the port anchor hanging in the place where the starboard anchor was; the stem and plates and everything had been buckled and fluted and hung out in the water way back, opening up a number of holes, and the lumber could be seen.

Q. That is hung back where?

A. On the starboard bow; it was pressed right around.

Q. Was there anybody injured aboard the Strathalbyn? A. One of the sailors was drowned, killed.

Q. Anybody else injured?

A. Several. Two of the sailors and one of the firemen, I believe; I would not be sure as to that.

Q. I hand you Libellant's Identification C and ask you if you recognize that as a photograph of the Strathalbyn? A. Yes, sir.

Q. Now I wish you would tell me if this anchro marked "A" in ink is the port or starboard anchor?

A. It is the port anchor, sir.

Q. What is this part of the vessel indicated by brackets marked "B" in ink?

A. The lower part of the stem.

Q. I call your attention to this marked "C," and ask you if that is the starboard anchor? A. Yes, sir.

Q. I call your attention to D and ask you if that is the collision bulkhead?

A. Yes, sir, that is the collision bulkhead.

Q. That is at the forward end of hold Number one?

A. Yes, sir.

Q. I call your attention to this chain that runs from the bow aft to the starboard anchor, is that the starboard anchor chain? A. Yes.

Q. I will ask you what this compartment is marked E? A. That is the sailors foc'sl.

Q. And what is this compartment marked F?

A. The fore peak, part of it.

Q. And this compartment marked "G"?

A. I don't know whether that is the fore peak tank or not; maybe it is the chain locker.

Q. I will ask you what this is in here back of the frames, at the point marked "H"?

A. That is the lumber cargo, in Number one hold.

Q. I will ask you what this is that appears to be hanging over the starboard bow, marked "T"?

A. That is the buckled plates of the starboard bow.

Q. Was the starboard so torn open that you could see right into the ship?

A. It was, sir. I saw it the next morning.

Q. That was due to this collision? A. It was, sir.

Q. Are you able to say from your own personal observation where the masthead light was positioned?

A. Not the exact position.

Q. How did you observe the lights?

A. I could see the reflection from the bridge on the crosstrees. I could look from the bridge and see the lights shining down.

Q. When you were on your way prior to this collision, were any of these booms or falls up or down?

A. They were all down in their places, ready for sea.

Q. I will ask you what deck this is marked "J"?

A. That is the saloon deck or cabin deck.

Q. I will ask you what deck you call the deck marked K? A. That is the lower bridge.

Q. Sometimes called the chart room deck?

A. Sometimes called the chart room deck, yes, sir.

Q. I will ask you what bridge you call that marked "L"? A. The flying bridge, sir.

Q. I will ask you about where the cargo of lumber was as you recall it; that is the top of the forward deck load of lumber on the house?

A. It came just a little bit alongside of these air-ports in the saloon cabin, about that high.

Q. About to the top of them?

A. I could not say as to that. It about half covered them as I recall.

Q. The port holes here are marked M?

A. Yes, sir.

Q. Where were you navigating from?

A. From the flying bridge.

Q. Marked "L"? A. Yes, sir.

Q. Who was with you on the bridge at the time you rounded Robinson's Point?

A. The chief officer, Mr. Purdy.

Q. Anybody else?

A. Shortly after, the Captain came up and relieved Purdy.

Q. Anybody else?

A. The quartermaster at the wheel, steering.

Q. Who was on the bridge at the time of the collision?

A. The quartermaster, Mr. Purdy, and Captain Crerar.

MR. HAYDEN: I now offer Libelant's Identification C.

Whereupon said photograph was marked Libelant's Identification C.

Q. Calling your attention to Libelant's "D," I will ask you on what bridge the port light, or both the port and starboard light, was burning?

A. The end of the lower bridge or chartroom deck.

Q. Was it in a regular box?

A. In a regular lamp screen, as it is called.

Q. Just forward of the boat?

A. Just forward of the boat, at the extreme end of the bridge.

MR. HUGHES: You mean the small boat?

A. Yes, sir.

MR. HAYDEN: I will mark that box A, carrying a line out to the letter "A," is that correct? A. Yes.

Q. Is that a correct representation of the Strathalbyn?

A. Yes, sir; she is partially discharged there.

Q. That is the forward cargo of lumber is discharged? A. Yes, sir.

MR. HAYDEN: I offer Identification D.

Whereupon said photograph was marked Libelant's Identification "D."

Q. Now I call your attention, Captain, to Libelant's Identification E; I will mark the port anchor "A," is that right? A. Yes, sir.

Q. And the part marked "B" is the incomplete stem? A. Yes, sir.

Q. That is the stem extends out beyond the reach of the picture? A. Yes, sir.

Q. The metal between the forward end of this pic-

ture or right hand side of the picture above "B," back to between points C and D, shown by the dotted line, represents the part of the bow of the Strathalbyn as it was twisted around on the starboard side by the impact of this collision, does it? A. It does, sir.

Q. The letter "E" on this picture represents the collision bulkhead? A. Yes, sir.

Q. And back or to the left of the letter E is the Number 1 hold, showing the cargo? A. Yes, sir.

Q. This marked with the letter "F" then is the cargo? A. Yes, sir.

Q. This compartment marked "G" is what?

A. The sailors foc-sl.

Q. And this coil of ropes marked "H" is what?

A. The fore-peak.

Q. And this chain that shows in the picture is the chain going from the starboard anchor, is it?

A. Yes, sir.

MR. HAYDEN: We offer this as Exhibit E.

Whereupon said photograph was marked Libelant's Exhibit E.

Q. Now calling your attention to identification "F," I will ask you if you recognize that?

A. Yes, sir, that is the windlass on the Strathalbyn.

Q. Was that broken by this collision?

A. Yes, sir, it was.

Q. And the chain which is here is the chain to the starboard anchor? A. Yes, sir.

MR. HAYDEN: We offer that as F.

Whereupon said photograph was marked Libelant's Exhibit F.

Q. Referring now to Identification H, that is the same picture as Identification E, except that it is taken from a little different direction?

A. Looking from aft forward.

Q. And the anchor marked A on Libelant's H is the port anchor? A. Yes, sir.

MR. HAYDEN: We offer that in evidence.

Whereupon said photograph was marked Libelant's H.

Q. Now referring to Identification I, that is Strathalbyn's bow.

MR. HAYDEN: I also offer that.

Whereupon said photograph was marked Libellant's I.

Q. Referring now to Identification J, calling your attention to the point around which the rope that is holding the pile-driver is made fast, marked "A," what does that indicate.

A. The lower part of the stem of the Strathalbyn.

Q. And B on this picture is the port anchor?

A. Yes, sir.

Q. And this mass hanging out on the starboard, over which hangs the starboard anchor chain, is the crumpled iron? A. Yes, of the starboard bow.

Q. Marked "C"? A. Yes.

Q. And the chain shown there is the chain to the starboard anchor? A. Yes, sir.

MR. HAYDEN: We offer that.

Whereupon said photograph was marked Libellant's J.

Q. Calling your attention to Identification K, is that the bow of the Strathalbyn?

A. That is the bow back of the collision bulkhead, with the crumpled plates.

Q. Does that fairly represent the crumpled plates?

A. Yes; some of which had been taken off.

MR. HAYDEN: We offer that photograph.

Whereupon said photograph was marked Libellant's K.

Q. Now calling your attention to Identification G, I will ask you if that is the starboard anchor marked "A"? A. It is, sir.

Q. Hanging from the wreckage. A. Yes, sir.

Q. Which is the same wreckage shown in Exhibit K? A. Yes, sir.

MR. HAYDEN: I offer that in evidence.

Whereupon said photograph was marked as Libellant's G.

Q. When these vessels came together at the time of the collision, how long would you say that they remained clinging to each other?

A. About a minute; she shot right by us.

CROSS EXAMINATION BY MR. HUGHES.

Q. When did you take charge of this ship as pilot?

A. On her arrival on the Sound.

Q. You brought her in? A. I did.

Q. What I meant more particularly was when you took charge for the purpose of piloting her out after she had taken cargo?

A. On the morning of the 12th I took her from the mill to anchorage, and came ashore, and went out about five o'clock with the Captain; we had some matters to adjust, and started to get under way about six o'clock.

Q. You left the harbor of Tacoma about six o'clock on the evening of January 12th? A. Yes, sir.

Q. What lights did the ship regularly carry?

A. A masthead light, two side lights and range light; that is prior to that time.

Q. Did she have the range light that night?

A. She did not.

Q. Why not?

A. Of my own knowledge, I could not tell.

Q. She carried the lights you have just stated; two side lights, masthead light and range light, when you brought her in? A. Yes.

Q. What were they? A. Electric lights.

Q. What were they on the night you started out with her on the evening of January 12th?

A. Oil lamps.

Q. Why was not the ship using her electric lights?

A. You will have to ask the chief engineer.

Q. You know nothing about that?

A. Of my own knowledge, no, sir, not personally.

Q. Did you know before you started why her electric lights were not going. A. I did.

Q. Did you inspect her oil lights that were used in place of her electric lights?

A. Before they were put up in place.

Q. Yes, sir?

A. No, sir.

Q. Or before they were lighted? A. No, sir.

Q. You did not inspect them afterwards, except as you looked at them?

A. I looked to see that they were burning.

Q. You did that from the bridge?

A. From the bridge, yes.

Q. The electric side lights were placed on the flying bridge, at the end of the flying bridge? A. Yes, sir.

Q. The oil lights used that night instead of the electric lights, in speaking of the sidelights, were placed on the ends of the lower bridge? A. Yes, sir.

Q. The electric masthead light was located where, on the mast of this ship?

A. On the foremast, just above the cross tree.

Q. You had nothing to do with the placing of the oil lamp used for a masthead light in place of the electric light, on the evening of the 12th? A. No, I did not.

Q. How far in front of your flying bridge, where you were on duty as pilot, was this mast on which the masthead light was placed?

A. I would judge 36 to 38 feet, sir.

Q. Did you ever take any measurements to know how high above the deck the cross tree is on that mast?

A. No, sir, I never did.

Q. Did she have forestays from the mast to the stem of the ship?

A. She had the regular stay, a wire stay to the bow or stem.

Q. Three of them together?

A. No, sir; that is I don't think so. My recollection is of only seeing one. About a three and one half inch wire; that is my recollection merely; but there was a stay from the topmast.

Q. Those forestays were carried away by the collision, weren't they? A. They were, sir.

Q. That masthead light showed abaft of the foremast of this ship, did it?

A. It did not show abaft of it, itself, or the light from it. It is supposed to show just a little abaft of the beam but not abaft of the mast.

Q. What is the range of the foremast head light?

A. All the way around the horizon, two points on each beam.

Q. Two points back of each beam?

A. Two points back on each beam, as you come up to it.

Q. That is it would show the full half signal in front and two points back of that on either side?

A. Yes, sir.

Q. From your bridge, you could not see the light itself. A. No, sir.

Q. You could only see its reflection against any object in front of it?

A. Yes, against the sky; the glare of it, as you can see lights anywhere else.

Q. It would have to be pretty dense atmosphere?

A. Not necessarily.

Q. You would have to make out its reflection against the stays?

A. I did not say it made a reflection against the stays.

Q. That is the only way you could actually see the light to know its condition would be by its reflection against some dark object?

A. The sky was dark and it throws its reflection just the same as the lights of the city. I could see the reflection of the lights go underneath the cross-tree and out at the side and up at the top. And that does not necessarily follow that it was a very dark or murky atmosphere.

Q. What was the direction of the wind on this night? A. Light southeast.

Q. About how many knots an hour?

You could not class it more than ought or one anyway; no wind at all. We were going as fast as the wind was.

Q. You think you were going as fast as the wind?

A. Faster. The smoke was going up straight mostly, what little there was.

Q. Of course the action of the smoke is fitful there?

A. Oh, yes, around the point, but on the straight run down I didn't notice the smoke to any extent going ahead of us at all.

Q. When you gave your signal to the Flyer, how did she lie from you. A. When she first came up?

Q. When you gave them the signal?

A. She lay forward of my port bow, I should judge about one point off of my port bow, and about a quarter

or a half a mile away. That is merely the judgment in the night, from my experience. I should have said the Flyer was a quarter to three-fourths point off my bow.

Q. The Flyer answered you promptly? A. Yes.

Q. Did I correctly understand you to say that the Flyer was abaft your beam before you gave the first signal to the Virginian?

A. About that; I did not pay any particular attention to her position after she had answered me and was parallel with me; I would judge between my beam and stern.

Q. How long a time then, according to your best recollection and judgment, elapsed between the time you gave your passing signal to the Flyer and the time you gave the first signal to the Virginian?

A. I could hardly tell. It was just about the time she was abeam of us I gave my first whistle to the Virginian; it might have been two minutes; it might have been more; I could not say as to that; we do not run so close as that in blowing whistles.

Q. But considering whistles, it would be two minutes?

A. Somewhere around that; I saw her; she had to come up to me after I had blown to her, there would be her speed coming and my speed too.

Q. About how far off your port side was she when she was abeam of you?

A. I would judge 300 or 350 feet.

Q. Not more than that?

A. I should not think so. I could see people walking around her deck.

Q. She had brilliantly lighted cabins?

A. Yes; I could see people on the deck walking around when she passed.

Q. They would be standing or passing between you and her cabin lights?

A. Yes. I could see the forms; I could not see the features.

Q. How far would you say you estimate the Virginian to be from you when you gave her the first passing signal? A. About a mile I would judge.

Q. And at that time you had her bearing how?

A. Just ahead of me and a little open on my port bows, it looked to me.

Q. About how much would you say she appeared to be on your port bow when you gave that first passing signal?

A. It was inappreciable. The red and green lights were plain. I could look right forward of my mast, and she looked to be ahead and right square at me and her range and masthead lights were right in line, one above the other; I judged she was heading square at me.

Q. So that she would be only slightly on your port bow?

A. That was my impression. Of course daylight may have made a difference.

Q. How long after you gave that signal did you port your helm.

A. I ported my helm the first time I blew to the Virginian.

Q. And after blowing?

A. As soon as I gave the blast I gave the order to port.

Q. How much did you direct them to port the helm?

A. I did not look at the compass, but I judge a point or a point and a half.

Q. But you gave no specific order as to how much?

A. No, sir, I said, "port," and when she got suitable to my mind, to show her my red light plainly, and he would port, I steadied her up, bring Pully Point about a half point open on my port bow.

Q. What do you mean by saying you steadied her up? A. I gave the order, "steady."

Q. To slacken off the port helm?

A. To put her over and stop her swinging, and I steadied her at the stop where she was supposed to be looking out at the time.

Q. That evidently occurred before you gave a second signal? A. Yes, sir.

Q. What time do you remember intervened while these things you have described took place?

A. I should judge a minute.

Q. During that time what was the Virginian doing, so far as you could observe?

A. Seemingly coming on her course, but just at the time I gave the second whistle his range light began to open a little, and the red light began to be not as brilliant, slightly dimmer.

Q. You had no answer from him?

A. No, sir, I had not.

Q. What conclusion did you reach?

A. I came to the conclusion at that time that it was through bad steering, and would swing out again.

Q. What conclusion did you reach about his not answering?

A. I don't know what he was thinking about.

Q. But I am not asking that, but what were your deductions as a pilot after having given the signal and waiting a minute and getting no answer, and seeing his ship apparently beginning to steer in the opposite way from which you signaled?

A. My inference was that he was not paying much attention to his business.

Q. Then you were in doubt about what he was doing?

A. No, sir, not at all, for a minute. My own opinion was that it was bad steering, and he was closing that red slightly, and opening his range light, and I expected fully under all rules of the road that his green would go out of sight and his red would come up plainly to my red, which he could not help but see.

Q. What right had you to expect anything until you got an answer from him?

A. Because where I stood I could hear all the whistles, and he could certainly hear mine.

Q. But he did not answer you? A. No, sir.

Q. What did that signify to you,—his failure to answer?

A. Either that he had not heard my whistle or that they were not keeping a very good lookout, and I blew again.

Q. The distance being what it was, you could not very well infer that he did not hear?

A. I had heard his and the Flyers long before,—three miles and over.

Q. And you gave a second whistle signalling your continued intention to pass to port?

A. Ported my helm again, keeping my red exposed, as it should have been.

Q. Now before giving that second blast, you had steadied your helm?

A. After I blew the first blast, yes.

Q. What occurred immediately after giving your second blast? A. I ported my helm again.

Q. Why did you do that?

A. Because that was the rule: when you blow your whistle you must port your helm.

Q. Having steadied your helm you ported again?

A. Yes sir.

Q. What did the Virginian do?

A. Nothing, apparently.

Q. How near did she seem to be to you by that time?

A. (Continuing) She was coming that way and he put his red light at me, and after I blew the whistle I stopped the engine.

Q. How near did she seem to be at that time?

A. Half or three-quarters of the distance of that when I gave the first whistle.

Q. That would be approximately half a mile away?

A. Half a mile, yes, sir.

Q. How soon after you gave the second whistle did you give the order the second time to port?

A. The same time I let go of the whistle.

Q. Did you notice whether the quartermaster observed your orders?

A. He answered me, and I looked at the wheel and saw he put it to port,—ported the helm.

Q. Did he put it over hard?

A. No, sir, I did not give the order hard-a-port.

Q. Did you do anything else at that time?

A. I steadied her again at that time, at the second blast,—not hearing again I blew my third.

Q. When was it stopped?

A. Just after I blew my second whistle, and he put his red light out completely.

Q. Then the order of events was this: You blew your second whistle and ordered your helm ported?

A. Yes.

Q. Then you began to lose sight of his red light?

A. Yes sir.

Q. Entirely? A. Yes.

Q. And when you began to lose sight of his red light, you stopped?

A. As soon as I saw his red light going out I stopped, because I was going in the beach; I was in irons, in other words, then.

Q. Captain, how long a time elapsed after you gave your second whistle before you had lost his red light sufficient to prompt you to give the order to stop the engine?

A. I saw the glimmer of the red light when I stopped; he was still continuing on his starboard helm.

Q. It so appeared to you?

A. From his range light.

Q. And you got no answer at all? A. No answer.

Q. What conclusion did you reach to your second whistle at so close a distance getting no answer, and losing his red light?

A. Well, I don't know that I can explain that Mr. Hughes. One of my conclusions was that probably he may have given the order port, and the quartermaster in the closed wheel house had put the helm starboard; that was merely a mental thought through my mind. I could not understand what he was doing.

Q. If such a mistake had been made, it would create the imminence of a collision at once?

A. Certainly; if one starboards and the other ports, you are bound to come together.

Q. What conclusion did you reach at his failure to answer your port whistle, your second port whistle?

A. I did not reach any; I thought they were very slack in their business, but if they had as many men on the bridge as they usually have, some of them must have heard.

Q. Any man on the bridge would necessarily hear, if he was not asleep or drunk?

A. That might be the case.

Q. Or if he had not fallen sick suddenly?

A. Oh, all of them might have dropped dead.

MR. HAYDEN: I object to all this as immaterial.

Q. How long a time elapsed between your second whistle and your third whistle?

A. I should judge a minute, as at first; sufficiently long to give him a chance to answer.

Q. How near do you think you were to him at the moment of giving him your third port signal?

A. I would think twelve to fifteen hundred feet off.

Q. His red light was then entirely out of sight?

A. Entirely out, yes, sir.

Q. His range lights appeared to be opening more?

A. They were broad.

Q. And nevertheless you gave him another port signal?

A. I could not do anything else; I was in irons.

Q. That is what you did? A. Yes, sir.

Q. Now you waited for an answer to that?

A. Practically, yes.

Q. Getting no answer you reversed?

A. I reversed and gave danger signals.

Q. And the instant you reversed you gave the danger signal, or before you reversed?

A. Practically the same, simultaneously; I had my hand on the whistle string.

Q. Why did you give that third port signal?

A. Because I could not help myself; he was forcing me into the beach; I had nothing else to do. I could not cross whistle him; that is contrary to law and would lose me my license as well as a fine; I could not change my whistle. I had every reason to believe that they kept a lookout; my red up against his green; all navigators would have changed the helm.

Q. It did not occur to you that he did not see your light?

A. No, sir, it never did; he could not help it. My lights were visible; it never occurred to me for a minute.

Q. What did occur to you as an explanation, to your mind, as a pilot, of the fact that a vessel whose lights you could plainly see, that was so near that they

must necessarily hear your whistles, gave you no answer? A. I cannot state; I do not know.

Q. How near were you to this oncoming ship at the time that you reversed and gave the danger signal?

A. I should judge at that time we were all of six or eight hundred feet away; we were practically stopped.

Q. How long was it after this danger signal until the collision actually occurred?

A. Probably a minute.

Q. Do you think as long as that?

A. Well it seemed hours, I could not tell as to the time. I know it seemed an awfully long time. I don't want to go through it again.

Q. Did you at any time order your helm hard over?

A. No, sir, I was backing then; she was still swinging; she had not enough headway to steady her up with the rudder. I was backing full speed, the propeller throwing her stern to port and bow to starboard.

Q. Her propeller would not do that until she began to go back?

A. Her propeller would throw her to port.

Q. Now as a navigator, so long as she had headway in the water and her wheel was ported, which way would her bow go, as long as she had headway?

A. Her bow to starboard, and stern to port, and her propeller backing would throw the stern still more to port. She was a port backing boat, as they call it. She backs to port.

Q. If she actually gained sternway with her helm aport, how would she throw her bow?

A. To starboard; to port until she got a long sternway; she would have to go a mile or two before her rudder would steer her, unless she had a strong breeze.

Q. Do you remember the Indianapolis passing you after you left Robinsons Point? A. Yes, sir.

Q. How far had you got beyond Robinsons Point?

A. I would judge a quarter of a mile; half a mile; not more than that. We were going very slow.

Q. How far off your starboard side did she pass?

A. Oh, about three hundred feet or so; I could not tell exactly. It was similar as I saw the Flyer.

Q. Captain, you are very familiar with the depth of water and so forth between Tacoma and Seattle, are you not? A. Fairly well.

Q. You have been navigating over these waters as master or pilot for thirty years. A. Yes, sir.

Q. And you are familiar with the Government charts? A. Yes, sir.

Q. You think you cleared Robinsons Point about a quarter of a mile? A. Yes, sir.

Q. And you took your course from Robinson's Point?

A. When I had the lights abeam, northwest, half north, magnetic.

Q. And you continued that course until you ported your helm, as you have testified, after signaling to the Virginian? A. Yes, sir.

Q. If nothing had occurred to cause you to deviate in any way from your course, where would that have taken you off Pully Point; how far off?

A. About three-eighths to half a mile.

Q. You have testified in your direct examination that according to your best judgment this collision occurred about a mile south of Pully Point? A. Yes, sir.

Q. Will you take the dividers and indicate as clearly as you can the point on this chart where the collision occurred, according to your best knowledge and judgment.

A. Yes, sir. I would judge I was about here (indicating).

Q. I will mark a circle around the point and opposite put the letter B, as indicating your initial. That represents the point where you think the collision occurred?

A. Where I should judge we were, yes, sir. If I had taken bearings, I could locate it, but I did not.

Q. But you did not take any bearings of Pully light? A. No, I did not have time.

Q. You did not after the collision take any bearings of Pully light or Robinson?

A. No, sir, I was busy starting, and I started back to Tacoma.

Q. About how long were you lying about the place of the collision before you started back?

A. About ten minutes I should judge; as soon as Purdy came back and he said he thought the collision bulkhead was holding. He said we will try and get to Tacoma. I had started originally to get in on the flat here.

Q. Was any report made to you by anyone after the collision that the starboard light was not burning?

A. No, sir.

Q. Did you make any measurements as to the height of the forward deck cargo? A. I did not, sir.

Q. Were the stanchions on the forward cargo retaining the cargo about the same as those on the rear deck cargo?

A. That I could not say; I don't know what the stanchions were aft; I did not go on the after deck at all.

Q. Please look at the photograph, Exhibit D, and observe the forward cargo and its stanchions; were they substantially the same as they appear here on the rear deck of the steamer?

A. I presume they were; I can't state positively; that was not my business to look after those.

Q. You could see the reflection of the red light against three or four of those stanchions on the port side ahead?

A. Yes, on the outside edge of the stanchions, yes.

Q. You could not see the outside of the stanchion; you would have to see the side towards you, would you not?

A. I could walk up the bridge and look forward and see them, yes, sir.

Q. Did you walk out to the forward bridge and lean out and look forward?

A. I did not lean out. I did not have to lean out from that bridge.

Q. You saw the reflection of the red light on more than the first stanchion?

A. Yes, I did, on the outside.

Q. Did you make that observation for any purpose, or simply as a casual thing, leaving the impression of a casual observation?

A. Just looking as I walked back and forth on the bridge.

Q. Did you do that because you had any doubt about the light, or simply the casual observation of which you have the impression now?

A. It is a habit I have, of looking forward and aft. I walk back and forth instead of standing in one position.

Q. You do not habitually have deck cargoes and stanchions in front of you when piloting a ship?

A. Latterly I have, yes, for the last year; I do not know that I have taken a ship out of here without a deck cargo.

Q. Do you know how soon the former cargo was taken off this ship?

A. No, sir, not of my own knowledge.

Q. Were you on the ship Saturday morning?

A. After the collision?

Q. The collision was Friday?

A. Yes, sir, the 12th.

Q. And the next morning were you on the Strathalbyn?

A. I was until about nine, and then came back again about ten.

Q. How long did you remain?

A. I stayed on the ship until she was here on the beach.

Q. When was the forward deck cargo taken off?

A. After we had got onto the beach, they started.

Q. What time did you get on the beach?

A. They had the scows alongside, between 12 and one.

Q. Did you see them take off the deck cargo?

A. I seen them begin to hand off the smaller stuff.

Q. Did you make any measurements of the deck cargo? A. No, sir.

Q. Did you make any examination then of those stanchions? A. No, sir, I did not.

Q. Do you know when those photographs you have identified were taken?

A. No, sir, I could not tell as to those photographs.

Q. Do you know how long after the collision occurred?

A. Some of them were taken,—I saw the photographer,—I don't know whether it was Mr. Hayden's photographer or not, but there were photographers there the minute we got on the beach.

Q. But these particular photographs?

A. After they had got on the beach, or alongside Balfour-Guthrie's dock.

Q. When was that,—after the collision?

A. I think Monday.

Q. Some of them were taken after considerable stripping had been done, you think?

A. Yes, sir, some of them.

Q. Did you make any observations between the time you gave your first passing whistle to the Virginian, and the collision, for the purpose of determining how much you had deviated from your original course?

A. Except the bow bearing on the land.

Q. Do you know how much she had deviated from her course?

A. At the time of the collision, I just glanced at the compass, and she was headed north, to my recollection.

Q. And your course prior to that time had been what? A. Northwest, half north.

Q. How much deviation would that be?

A. That would be three points and a half.

Q. That was after the impact of the collision that you noticed she was heading north? A. Yes, sir.

Q. The impact of the collision with your port helm had swung your ship over to starboard,—your bow?

A. Yes, and we were still swinging to starboard with our propellor backing up; we were changing our range.

Q. You gave your testimony before the inspectors, did you not, recently? A. Yes, sir.

Q. At that time you gave this testimony, to-wit: "I made the remark after I blew my first whistle,—the red light seemed to be getting dimmer and the green very much brighter,—I says I wish to God he would get that helm to port and show me his red more, and then blew." Was that correct?

A. I do not say as to whether it was the first whistle or the second that I made that remark to Purdy; it was at the time he begun to dim his red light.

Q. Now I want you to observe this testimony, and I show you the reporter's transcript as I read it, and ask you if that was the testimony you gave before the Commissioner, to-wit: "I made the remark after I blew my first whistle,—the red light seemed to be getting dim, but the green very much brighter,—I said, I wish to God he would get that helm to port and show me his red more. I then blew; not hearing from him I blew my second blast at him, and stopped her right then, because the red was going dimmer all the time." Was that the testimony you gave?

A. I don't remember giving it that way; no, sir. If it was transcribed rightly it must be, but I don't remember giving it that way. I don't have any recollection of that at all. I had no reason to do it at the first whistle.

RE-DIRECT EXAMINATION.

(BY MR. HAYDEN)

Q. In coming down from Seattle towards Tacoma on the course that these vessels were approaching each other, what would you say as to the ability, on that kind of a night, as at the time of this accident, of the Virginian or persons aboard the Virginian, had there been no lights on board the Strathalbyn, to have made her out?

MR. HUGHES: That is objected to as incompetent, and calling for a conclusion and the guess of the witness as to what he might have done, as to a situation which did not exist.

MR. HAYDEN: You are familiar with that stretch of water? A. Yes, sir.

Q. You have traveled it many times? A. Yes.

Q. Are you able to answer the question which I have just asked you, from your experience?

(Question read.)

A. I could see the Virginian's hull plainly 12 or 1500 feet before she hit us. I don't see, if they were looking, why they could not see us as well, with our white deckload of lumber.

Q. Is there any more reason why you could see the Virginian's hull than that they should see yours?

A. None that I know of.

Q. No difference in the backing of the water, or the lights, that would make the Virginian show up more plainly than the Strathalbyn?

A. No, it was in favor of us, because of the illumination back of Point Robinson.

Q. The City of Tacoma throws a glow in the sky on a cloudy night? A. Yes, sir, all over.

Q. What is the effect of the white cargo of lumber upon the steamer as to her being seen?

MR. HUGHES: That is objectionable as incompetent, and being a guess.

Q. If you ever observed?

A. I have seen it on other ships. I have been able to distinguish the deck load as against the bright hull.

Q. Is it visible for a greater or less distance than a vessel that is dark and has no deckload?

A. It naturally would be, yes, sir, in the night. You can see a white sign better than you can a black sign.

Q. On the courses that you were approaching each other, would the side of your lumber cargo be exposed to the view from the Virginian?

A. At what time, sir?

Q. At the time you ported first for her?

A. It might not be so much at the first porting; it would have been more so at the second, because we were pretty near broadside to him.

Q. When?

A. At the second whistle; between the second and third whistle.

Q. I notice when you placed the position that you considered you were in, on the chart,—have you measured that out from measurements at all, or just recollection?

A. It is merely from my recollection as I looked at the ship for the land back here. At the time of the collision I was heading in here to the slope of this high land back of Pully Point.

Q. You might have been further out?

A. Oh, yes; I might have been out here (indicating).

Q. Where?

A. Out nearer this course; but I was inside. I had changed my course inside Pully and had ported again and the third time I was headed in. I had this land with the City's glow very distinct, this high hill very distinct, and was headed in here at the time of the collision. I understood Mr. Hughes to ask where I thought I was; I did not measure it, but would judge from the point as I remember it as it looked to me.

Q. Do you think you were as much as three-quarters of a knot off your course at the time of the collision?

A. A half to three-quarters.

Q. Do you think you were that far off?

A. I could not say; I had taken no bearings or checks on it.

Q. You judge of your position as marked on this chart by reason of your heading of the vessel?

A. My heading; what I had seen with my eyes; I have not figured it out or measured it out.

Q. Now, Captain, you say when you first ported, you ported so you had Pully Point a little on your port bow? A. Yes, sir, half a point, about.

Q. And the second time you ported, you headed up towards the pit?

A. Towards the gravel; up to where,—where the gravel pit would be.

Q. Now immediately after the collision, after your vessels had drawn apart, in what position did they lie?

A. They laid parallel.

Q. The bow of the Virginian had swung around so that she was about parallel with your course?

MR. HUGHES: Object to that as leading.

A. About parallel with each other.

Q. Was the bow of the Strathalbyn and the bow of the Virginian headed in the same direction?

A. Apparently so, sir.

Q. And at that time about what course would you be on?

A. I did not look at that, sir, I was still backing

after the collision. My thought then was to get her to the beach.

Q. Did you observe anyone on board the Virginian using lights or anything of the kind, after the collision?

A. After we had drawn apart, they lowered a lantern down to see what damage had been done.

Q. What position were you in relative to the Virginian at that time?

A. About this position (indicating).

Q. What is that?

A. We were both backing; we were apparently being pried away from each other.

Q. The bows were pointed towards each other and sterns away?

A. No, the sterns were toward each other and the bows going away from each other. I was waiting for her to get clear, and wanted to get nearer the beach in case she was badly damaged and would not float. I was in such position I could not go out, and the Flyer on the other side, I could not go that way.

Q. The Flyer came up to you on which side?

A. On our starboard side, sir.

Q. At the time the Virginian and the Strathalbyn were approaching each other, and from the time you whistled to the Flyer until the collision, did you observe any smoke from the Strathalbyn that could have in any manner obscured the headlight? A. No, sir.

Q. You spoke about the forestays; you say they carried away; do you know whether more than one carried away?

A. No, sir, I could not say as to that. I think one did carry away; I could not say which one; I do not remember.

RE-CROSS EXAMINATION.

(BY MR. HUGHES)

Q. You had a heavy load when you started from Tacoma?

A. Well that depends on how you view it; we had a fairly good load.

Q. Low in the water?

A. Her usual draft allowed by law.

Q. Well, were you low in the water? A. No, sir.

Q. How high was the deck immediately in front of the bridge above the water; I mean the deck on which the lumber cargo rested?

A. I don't know what the lines are; I could not tell.

Q. What water was she drawing?

A. Twenty-three feet five, I believe.

Q. Do you know what depth of hold?

A. No, sir, I do not know her measurements.

Q. What color was the hull of the ship, of the fore-castle? A. Black.

Q. What was her height above the water compared with the Virginian? A. She was lower.

Q. Very much lower?

A. The Virginian was way up high out of the water, yes, sir.

Q. What was the color of the Virginian's hull?

A. I do not know, sir.

Q. Is it easier to see a ship's hull when she has a list to port than when she has not?

A. You can see the loom of the hull.

Q. When you make out the light of a ship, you can make out the loom of the hull earlier?

A. It depends on whether she is passenger or freight.

Q. On any ship when you make out the light, you have something to focus your vision on?

A. Yes, sir, but if you are up against black woods, you cannot as well as if you have lights back of you.

Q. As a matter of fact if you have a glow in the distance, that would make it more difficult to see a dark object than otherwise, wouldn't it?

A. Not necessarily, no, sir.

Q. Did you have any stern light on this boat that night?

MR. HAYDEN. That is objected to as immaterial and not proper cross examination.

A. I could not say of my own knowledge.

Q. You know nothing about that?

A. I did not go aft.

Q. Did you have any conversation with the Captain of the Indianapolis, Penfield, the next day or subsequent to this collision in regard to the lights?

MR. HAYDEN: That is objected to as incompetent, irrelevant and immaterial and not proper cross examination.

A. I did.

Q. When and where did you have that conversation?

A. In the pilot house of the Indianapolis, going to Seattle.

Q. Did he ask you why you had a light on the stern of the ship and you answered him it was because your lights were poor,—in substance?

MR. HAYDEN: Objected to as incompetent, irrelevant and immaterial.

A. I did not, no, sir.

Q. Or did you say to him that the reason you had that light on the ship was because you were having trouble with your lights?

A. I did not say any such a thing to him, sir.

MR. HAYDEN: That is objected to as incompetent, irrelevant and immaterial, and not proper cross examination.

Q. You testified, did you not, that the Virginian was somewhere from six hundred to eight hundred feet ahead of you when you gave the danger signal?

A. I do not remember that I said that.

Q. What is your opinion on that?

A. When I gave the danger signal, I would judge that distance, perhaps more; it is just a matter of judgment in that case.

Q. And how far away did you say she was when you could make out her hull, independent of her lights?

A. I made out the loom about a thousand or twelve hundred feet. I did not say the hull.

(BY MR. HAYDEN.)

Q. I forgot to ask: Do you remember the time you passed Robinson's Point?

A. Yes, sir; 7:28 by my watch.

Q. Do you remember the time that you came into collision?

A. Well, no, I didn't look at my watch at that mo-

ment. I would judge it was about 7:50 or 7:55 by our time. I had no time to look then.

(Witness excused.)

GEORGE T. CRERAR, a witness called and sworn on behalf of the libellant, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. What is your name? A. George T. Crerar.

Q. How old are you? A. Forty-two.

Q. How long have you been going to sea?

A. Twenty-six years.

Q. You are master of the Strathalbyn and were on the night of the collision with the Virginian?

A. Yes sir.

Q. How long have you been master of vessels?

A. About 7 years.

Q. On the night of this accident, were you aboard of her when she left Tacoma? A. Yes, sir.

Q. Where were you when you passed Pully Point?

A. We had not passed Pully Point.

Q. Excuse me, I meant Robinson Point?

A. I was below.

Q. Did anything unusual occur between Tacoma and Robinson's Point?

A. Nothing that I can remember.

Q. After passing Robinson's Point when did you go on the bridge, if at all?

A. I should judge it was shortly after half past seven.

Q. Tell us what you were doing when passing Robinson's Point? A. I was writing.

Q. Why did you go on the bridge?

A. I will take that back, as to half-past seven. I came on the bridge a few minutes after seven.

Q. Then did you go back again?

A. Yes, I went below again.

Q. Then when did you next go on the bridge?

A. I came on the bridge when I heard the whistle blown and the helm put over.

Q. Where was the room you were writing in?

A. Right down underneath the chart room, on the cabin deck.

Q. Take Exhibit D and show me the room you were writing in, by marking a cross with this pen?

A. Yes, sir.

Q. The 5th port light showing above this cross is the room you were in? A. All of the five ports.

Q. What did you do when you left your room?

A. Went on the bridge?

Q. What did you do on your way to the bridge, if anything?

A. I went over and looked at the port side light.

Q. Did you come out on the port side of the ship?

A. Yes, sir, and up the port ladder.

Q. And you looked at the port side light?

A. Yes, sir.

Q. Did you see it? A. Yes, sir.

Q. Was it burning? A. Yes, sir.

Q. Did there appear to be anything unusual or out of the way with it? A. Nothing at all.

Q. Did it appear to be burning brightly?

A. Just as an ordinary light would burn.

Q. Then what did you do after looking at the port side light?

A. I saw a steamer's green light and range light on the port bow, and I walked up on the upper bridge.

Q. Did you watch this steamer after you were on the upper bridge? A. Yes, sir.

Q. This steamer where you saw this green and range lights subsequently proved to be what?

A. The Virginian.

Q. When you got on the upper bridge, what happened?

A. When I got up on the upper bridge, Captain Beecher sounded his second passing signal and stopped the engine.

Q. Did you observe the Virginian approaching?

A. Yes.

Q. How did she appear to be manoeuvring?

A. She appeared to be swinging on her starboard helm when I came on deck, and her range lights were opening.

Q. That is the masthead light, and the main mast light, is that it? A. Yes, sir.

Q. Did you watch her? A. Yes, sir.

Q. Did you watch the navigation of your ship?

A. Well I heard Captain Beecher tell the man to port the helm, and saw him put it a port.

Q. When was that? A. After the second whistle.

Q. What next did you hear?

A. The third whistle from us.

Q. Did you observe the Virginian in the interval between the second and third whistle? A. Yes, sir.

Q. How did she appear to be acting?

A. She seemed to be still swinging on her starboard helm, by the appearance of her masthead lights.

Q. When you went on the bridge did you observe whether or not the masthead light on your vessel was burning? A. I saw it burning.

Q. How could you tell that it was burning?

A. I could see the glare of it.

Q. How did the glare appear?

A. As if it was burning brightly.

Q. Well, on what? A. On the fore-stay.

Q. Now after the third whistle to the Virginian, what occurred?

A. After the third whistle we kept swinging on our port helm, and then Captain Beecher blew the danger signal.

Q. Did you observe whether or not he used the telegraph at that time?

A. He run full speed astern, just after blowing the danger signal.

Q. Did you observe the Flyer coming up to you?

A. When I came on deck the Flyer was just on our port quarter; I would think about a half a mile away,—a quarter to half a mile.

Q. When you first saw the Virginian how far would you say she was from you?

A. When I got on the upper bridge I would say she was about a mile off.

Q. That was then at the time of the second whistle? A. Yes, sir.

Q. What was the interval would you judge, between the first whistle to the Virginian and the second?

A. About a minute or a minute and a half.

Q. What would you judge was the interval between the second and the third whistle to the Virginian?

A. About the same.

Q. What would you say was the interval between the third whistle and the danger signals?

A. About a minute.

Q. After the danger signal was given what would you say would be the length of time that elapsed before the Virginian and yourself came into collision?

A. Well about three-fourths of a minute.

Q. After you gave your first whistle to the Virginian, did you get any reply from her?

A. No reply to any of the passing whistles.

Q. After you gave the danger signal, did you get a reply from her? A. Sometime afterward.

Q. How long would you say elapsed between the time of her replying to your danger signals and the time of the collision?

A. Ten to twenty seconds, I would say.

Q. Did you observe whether or not the Virginian was backing at the time you came into collision?

A. Just before she struck us, Captain Beecher directed my attention to the wash of her water coming up.

Q. Where did that appear to be?

A. Around her stern.

Q. How far forward?

A. It did not get forward at all, but was just beginning to come up. Captain Beecher remarked, "He is just going astern now."

Q. How long was that before the collision?

A. Twenty or thirty seconds; about the same time he blew the danger signal.

Q. What was the angle of the two vessels at the time of the collision? A. About three or four points.

Q. Taking the Strathalbyn as the base line?

A. Taking the Strathalbyn as the base line, three or four points.

Q. On what side was the Virginian approaching?

A. The port side.

Q. On what side did the Virginian hit you?

A. Port side.

Q. Did you observe the two vessels at the moment of the impact? A. Yes.

Q. What did you see? A. Saw the sparks flying.

Q. Did you feel anything? A. I felt the shock.

Q. Was the shock severe or otherwise?

A. Very severe; something what I should expect going full speed ahead into a dock wall.

Q. What was the speed of the Strathalbyn; what was she making that night?

A. From the time we left Tacoma, up to Robinson's Point, Captain Beecher informed me it was making only about six knots. I know she was going very slowly; the revolutions were very far back.

Q. What would you say would be her movement through the water at the time of the collision, if any?

A. At the moment of the collision, I would say we were dead stopped; practically no way.

Q. What was the effect on the Strathalbyn of this impact from the Virginian, as far as making her list or otherwise? A. It listed her over very heavily.

Q. Which way? A. To the starboard.

Q. Did you observe Pully Point light at the time you came on the bridge? A. No, sir, I did not.

Q. Did you observe Pully Point light after the collision? A. No, sir.

Q. I want you to refer to Identification C, and if you know state where the masthead light was positioned on the night in question?

A. Immediately under the electric light.

Q. Where you have placed the cross? A. Yes, sir.

Q. From which I am drawing a line, and marked the letter "O"? A. Yes, sir.

Q. How is that light positioned there?

A. The fork hangs from the base of the electric light which goes into these guides.

Q. Referring to the guides, you mean the rings on the side of the masthead light? A. Yes, sir.

Q. Is this the masthead light which I have in my hand? A. Yes, sir.

Q. Marked Identification "L"? A. Yes, sir.

Q. State how this light, Identification L, is placed in position? A. It is placed in a cage, and held up.

Q. Does the cage in any way obstruct the full circle of the light?

A. Not at all. The cage is exactly the construction of this.

Q. What is the object of the cage?

A. It fits the lamp all around; the object is to hold the lamp.

Q. And these iron brackets or guides extend down from the top of the cross tree?

A. A wire, rope, on each one comes right down to the deck.

Q. And that wire rope is placed through these rings on the masthead light? A. Yes, sir.

Q. And the masthead light is pulled up until it comes solid? A. Yes, sir.

Q. And then it is suspended and held by these two iron rods immediately under the base of the electric light?

A. Yes, sir, under the electric light where I have marked it.

Q. Is that light directly amidships, or is it to port or starboard? A. A little port.

Q. Where does the forestay come; from what point is the fore-stay that leads from near the cross-arms on the foremast?

A. It is shackled onto this band marked forestay shackle.

Q. Would that forestay be in front, directly ahead of this light? A. Impossible.

Q. Why? A. It is down below it.

Q. Did you have any other forestay on the vessel?

A. The foretopmast stay.

Q. That comes from where?

A. From the masthead down to the stem.

Q. Was that carried away by the collision?

A. Yes, sir.

Q. Would that obstruct this light?

A. Absolutely impossible. It is only a small stay.

Q. Is this the same lamp, the identical lamp that was in use on the night of the collision?

A. To the best of my knowledge it is; we have two, they are exactly the same.

Q. Is there any difference in the appearance of the two lamps in any way?

A. I don't think so. They are absolutely identical.

Q. I call your attention to the lamp inside of the glass globe, and to the reflector; is that the kind of lamp you had that night? A. Yes, sir.

Q. Is it exactly the same?

A. I did not look at the lamps.

Q. They are the same lamps; they are the only ones you have?

A. We have only one set, side lights and two mast-head lights.

MR. HAYDEN: I want to introduce that in evidence.

WHEREUPON said lamp was marked Libellant's Identification L.

Q. Now you only have on set of sidelights?

A. Only one set of oil sidelights.

Q. Is this the sidelight that was in use that night?

A. It must be; it is the only one we have.

Q. I will mark that Identification M. Look at it and see if it is in ordinary condition? A. Yes, sir.

Q. The lamp in it? A. Yes.

Q. And the reflector in it? A. Yes, sir.

Q. And the globe? A. Yes.

Q. And the glass in the lamp, is it the same?

A. Yes, sir.

Q. And is the top of it the same? A. Yes.

Q. The verdigris at the top of it the same?

A. I didn't look at that. I don't think it has been touched since it was taken off the ship.

Q. Is there any indication so far as you have been able to discover of any smoke upon that lamp?

A. Of course I did not look at the lamp at all, but I don't think so.

Q. Look at it now; do you discover any indication of smoke upon it in any way? A. No.

Q. Does the lamp have any appearance of having been scoured or cleaned in any way? A. No, sir.

Q. The original verdigris is on it is it?

A. That looks like it.

Q. That is the same glass that was in it on that night? A. It must be.

MR. HAYDEN: We offer that.

WHEREUPON said lamp was ticketed as Libelant's Exhibit M. (M).

Q. And the same reflector? A. So far as I know.

Q. I now call your attention to the other light, the green light, our Identification N. Is that the same light?

A. So far as I know, it must be the same.

Q. It came off your vessel?

A. We have only one set.

Q. Is there any indication of smoke on that that you can see? A. No, sir.

MR. HAYDEN: We also offer that.

WHEREUPON said lamp was ticketed as Libelant's N.

Q. When you looked at the light coming up from your cabin, did you see any indication of smoke upon it or anything that would appear to obscure the view of it?

A. No, sir.

Q. Calling your attention to Libelant's Exhibits C, G, K, J, I, H and E, do they represent the condition of the Strathalbyn after the accident? A. Yes, sir.

Q. Referring to Exhibit G, that shows what?

A. The starboard anchor.

Q. Hanging to what?

A. Hanging to the wreckage.

Q. And exhibit K shows what? A. The bow.

Q. Now that identification fairly represents the wrecked plating? A. Yes, sir.

Q. And Exhibit J represents what?

A. Practically the whole of the damage above the water line, and the anchor hanging on the starboard.

Q. That is what anchor? A. The port anchor.

Q. What is this comparatively white place in here on exhibit J?

A. That is one of the forecastle ports broken.

Q. I will mark that F and P. That was twisted

around practically to a position directly ahead,—the forecastle port that was broken? A. Yes, sir.

Q. How far was that aft of the stem before the accident? A. About eight feet.

Q. Now referring to Exhibit I, this part with the figures, 28, 27, 26, 25, represents what?

A. The lower part of the stem.

Q. And the part above that represents what?

A. The port bow plating.

Q. Bent around to the starboard side?

A. Yes, sir.

Q. Exhibit H represents the same damage to the port anchor, on the starboard side? A. Yes, sir.

Q. Exhibit E?

A. The same thing, taken at a different angle.

Q. What is the space where the letter H is marked on this Exhibit E?

A. That is the alleyway between the forecastle,—this is the forecastle here and that is the locker there.

Q. The part marked H then is the locker?

A. Right forward of the locker.

Q. What is this compartment just forward of the letter E, between the forecastle deck and this deck below it? A. That is the forepeak.

Q. We will mark that with the letter "I" on Exhibit E? A. Yes.

Q. What is the space below the forepeak, back between here? A. Aft here is the chain locker.

Q. That is marked "J"? A. Yes.

Q. And forward of that is the forepeak again?

A. Yes, sir, the lower compartment.

Q. Letter E represents the collision bulkhead?

A. Yes, sir.

Q. And back to the left of that are the number one hold,— A. Yes, sir.

Q. And the perpendicular pieces are what?

A. The frames of the ship.

Q. Referring to Exhibit C, that shows practically the same thing does it? A. Yes, sir.

Q. The damage? A. Just the same.

Q. Exhibit F shows the condition of the windlass?

A. Yes, sir.

Q. How was that chain on the windlass prior to the accident? A. Right over here (indicating).

Q. Across the windlass? A. Yes.

Q. The same as the chain on the opposite side that you can see? A. Exactly.

Q. And the force of the collision broke that windlass down and carried the chain over? A. Yes, sir.

Q. That is chained to the starboard anchor?

A. Yes, sir.

Q. Now as regards all the photographs introduced in evidence, do they fully represent the Strathalbyn and her condition after the accident?

A. I think so, all of these do.

Q. At the time of the accident, did the Virginian appear to be moving?

A. Yes, sir, I would say she was moving very fast.

Q. How long did you remain together, if you remember, after the impact? A. Half a minute.

Q. Did you observe the bow of the Virginian as to whether or not it crossed the bow of the Strathalbyn?

A. Yes, sir.

Q. How far would you say it crossed?

A. Pretty nearly as far as the foremast?

Q. Taking the Strathalbyn as the base line, about what angle did the two vessels come together?

A. About three or four points.

Q. Three or four points off your bow?

A. Yes, sir.

Q. At the time the danger signal was blown from the Strathalbyn to the Virginian, how far apart would you say the two vessels were?

A. About a quarter of a mile.

Q. At that time would it have been possible for the Virginian to have gone to starboard had she acted promptly on receiving the whistle of the Strathalbyn, to have missed the Strathalbyn?

A. If she had gone to starboard,—if she had ported her helm, I think so. If he had ported his helm promptly I think with the speed he had he would have answered his helm in time to clear us.

Q. He had good headway, did he?

A. He must have had.

Q. Whereas your vessel was practically stationary?

A. Very nearly.

Q. Well, was it?

A. I would say it was; certainly without steerage way.

Q. The Strathalbyn was without steerage way?

A. Yes, sir.

Q. Do you know the course that was taken by the Strathalbyn from Robinson's Point towards Pully?

A. No, sir, I did not notice it.

Q. Do you remember the Flyer coming up to you after the accident?

A. Yes, sir.

Q. On which side did she come up to you?

A. On the starboard side.

Q. Did you order anybody to look at the port light at any time after you were on the flying bridge?

A. No, sir; oh, yes, I asked the chief officer.

Q. Who is that? A. Mr. Purdy.

Q. Did he go and look at it? A. Yes, sir.

Q. Did he report to you?

A. He reported to me it was all right.

Q. Did he report from the flying bridge?

A. He came up on the flying bridge.

Q. Did you send him from the flying bridge?

A. Yes, sir.

Q. And he went down below and looked at it and came back and reported it? A. Yes, sir.

Q. About what time was that with respect to the whistles of the Strathalbyn?

A. That was immediately after I went on the bridge; I went to see the light to be sure myself, and had it verified by the chief officer.

Q. Why did you send Purdy down to look at the port light?

A. Because that was the light that was exposed to the steamer that was coming.

Q. Captain, what were you loaded with?

A. Lumber.

Q. Did you have a forward deckload?

A. Yes, sir.

Q. How was that deckload placed on your vessel?

A. In what respect.

Q. How was it loaded aboard of you?

A. By the steamer's windlass.

Q. But how it appeared after it was loaded; how much was put on and how was it held in position?

A. It was held in position by the usual stanchions.

Q. How much deckload did she have?

A. Fourteen feet.

Q. What is the height from the cargo deck or main deck, if you remember, to your chart-room deck?

A. Fifteen feet four inches from the main deck to the chart room deck.

Q. What is the height or the distance between your chart room deck and the light screen?

A. Eight inches I think, I am not sure.

Q. What is the height of the wick of your lamp on the main deck? A. Sixteen feet ten inches.

Q. What is the width of your rail?

A. The main rail is about a foot, I would say; $11\frac{1}{2}$ inches.

Q. Was there anything on your main rail that projects in board from it?

A. On the port side there is a pipe.

Q. How much inside of that rail does the pipe extend? A. About an inch or an inch and one-half.

Q. Did these stanchions extend to a height that would be above the light as it was positioned that night?

A. Yes.

Q. Did you observe the rays of light upon these stanchions? A. Yes, I did.

Q. How did it appear?

A. They would shine on the outside of the stanchions.

Q. What would that indicate?

A. That the stanchions were in line with the,—
(interrupted)

MR. HUGHES: That is objected to as calling for a conclusion.

A. (Continuing) —that the light was showing in a proper manner ahead of the ship.

Q. Were those stanchions in board of the range of the light looking right directly ahead of the ship?

A. Yes, I think so.

Q. When you first observed the Virginian after you came out of your room, what bearing did she have from your vessel?

A. She was about three or three and a half over the port bow.

Q. After you went on the flying bridge and the second whistle was given, at that time about what bearing would she have from you?

A. About two points then; we were swinging.

Q. At the third whistle, about what bearing would she have from you?

A. About three or three and one-half.

Q. Points on your port bow? A. Yes.

CROSS EXAMINATION.

(BY MR. HUGHES).

Q. Captain, what is the capacity of your ship, the Strathalbyn?

A. Seven thousand two hundred tons.

Q. Was she fully loaded?

A. Fully loaded with lumber.

MR. HAYDEN: I wanted to ask about your ship's time, captain, what was that?

A. It was something different from Captain Beecher's, but I don't remember exactly what it was.

Q. Was it intended to be standard time?

A. It was not standard time.

Q. It was different from Captain Beecher's, or was it? A. Yes.

(BY MR. HUGHES).

Q. You say she had a full cargo that night?

A. Yes, sir.

Q. Did she have anything but lumber?

A. Nothing but lumber.

Q. How many thousand feet of lumber did she carry?

A. Three million five hundred thousand; three million, five hundred and sixty-three thousand, I think it was.

Q. How much lumber did she have on her forward deck? A. I could not tell.

Q. You have no record of that at all? A. No, sir.

Q. The ship has no record of it in the log or otherwise? A. No, sir.

Q. You had no knowledge?

A. Not of the quantity.

Q. Of the number of thousand feet?

A. I can give the quantity of the whole deck cargo, but not of either the after deck or the forward deck.

Q. How much was the whole?

A. Nine hundred and sixty thousand.

Q. Do you know what portion was forward and what portion aft?

A. About half and half, I would say, probably a little more forward.

Q. Well, why did you say there was more forward; was the forward deck covered by cargo larger than the aft deck covered by it?

A. No; we generally take a little more forward, on account of the trim of the vessel.

Q. Was the space covered the same?

A. About the same, I would say; I never measured the deck.

Q. How much more did you have forward than aft?

A. I could not say.

Q. Was it two feet higher?

A. Oh, no, I don't think so. We had 14 feet on the forward deck.

Q. Did you measure it?

A. No, sir, I did not.

Q. You are only guessing?

A. I have heard from,—(interrupted)

Q. I want your own knowledge?

A. I did not measure.

Q. On the examination before the inspector you stated that the fore deck cargo was 14 feet 6 inches?

A. Yes, that was estimated to be it.

MR. HAYDEN: Since that time you have heard it was 14 feet?

MR. HUGHES: Let me examine him.

Q. After this collision, did you make any measurements of the forward deck cargo? A. No, sir.

Q. How quickly was this cargo taken off the forward deck?

A. It was not taken off quick enough for me. We did not get started on it until afternoon on Saturday.

Q. And what time did they get it off?

A. Monday morning I think.

Q. Did they work Sunday? A. Yes, sir.

Q. When did they take off the rear deck cargo?

A. Some time after that.

Q. What is the width of the forward deck immediately in front of your cabin? A. I cannot tell that.

Q. Who can if you cannot; do you know?

A. I can tell the beam of the ship.

Q. What is it? A. That is 52 feet.

Q. What space would that make inside the rails?

A. I do not know.

Q. How much does she narrow between the beam of the ship and the bend immediately in front of your cabin or bridge? A. I could not tell you.

Q. Does she narrow any?

A. Well I don't know; I suppose the broadest part would start about there.

Q. The broadest part would be just back of that; the beam of the ship would be a little back of that point?

A. Yes, I think so.

Q. And she begins to narrow as she goes forward?

A. Yes, I think so.

Q. That deck cargo was piled from a point immediately in front of your cabin? A. Yes, sir.

Q. Up to the forecastle?

A. Up to the forecastle, yes.

Q. The forecastle is indicated by the raised portion of the bow of the ship as shown in photograph Exhibit B?

A. They have lockers and an alley way down there.

Q. It would come up to within about how far from the forecastle? A. Three or four feet.

Q. What distance would that be from your cabin up to the end of the pile of lumber there?

A. I never measured that.

Q. You know what the distance is from your cabin to the forecastle? A. No, sir.

Q. Have you any idea or judgment?

MR. HAYDEN: That is objected to as immaterial.

A. I would say about ninety feet.

Q. What is your best judgment and information as to the length of deck supposed to be covered by the forward deck cargo? A. I could not say.

Q. Well, if the distance be about 90 feet from your cabin to the forecastle, and there was four feet of space from the forecastle back to the lumber, it would be something like 85 feet; would that be approximately right? A. If that is the case.

MR. HAYDEN: I object to all that.

Q. How much narrower is the deck just back of the forecastle where the lumber cargo occupied?

A. I do not know.

Q. Have you any idea about that? A. No.

Q. How long have you been master of that ship?

A. Two years.

Q. And you do not know how much she draws in?

A. No; I have had no occasion to measure it.

Q. And you would not have any judgment about it?

A. No, I would not like to trust to my judgment on that.

Q. How much does the deck raise as you go forward from your cabin to the forecastle?

A. That is another thing I cannot tell.

Q. You have no idea about that? A. No, sir.

Q. You could not tell whether it is one foot or six?

A. No, sir; I have no plan of the ship and I have not measured.

Q. You have the plan on your ship?

A. No, I haven't any plan of the ship.

Q. And you cannot tell from traveling over it for three years anything about what the elevation is in the ninety feet? A. No, I could not tell you.

Q. Your ship was equipped with electric lights and dynamo? A. Yes, sir.

Q. Was it so equipped when you took charge of it?

A. Yes, sir.

Q. That equipment was on when you became master of the ship? A. Yes, sir.

Q. When you first went to the ship, you did not serve in any other capacity? A. No, I joined her new.

Q. She was new at that time? A. Yes, sir.

Q. And you had also these auxiliary lights you have identified?

A. Yes, sir; they were supplied by the shipbuilders.

Q. Did you have them inspected after you took charge of the ship?

A. No, they were inspected before I think.

Q. Do you know anything about it?

A. I have had a certificate of inspection.

Q. You had such a certificate on board the ship?

A. Yes, sir.

Q. Do you know when they were inspected?

A. I could not tell the date now, but I know I have a certificate on board.

Q. When did you ever examine that certificate of inspection to know that it covered these lights?

A. I have seen it several times amongst my official papers.

Q. Did you ever have cause to examine it to see that it covered these lights?

A. It is along with my other papers which I have occasion to look at, and I know the inspection light certificate was there.

Q. Did you ever examine it to see if these particular lights were properly inspected in the past?

A. I could not say anything about the lights. These were the lights supplied with the ship and the certificate came along with them as I understand.

Q. You testified on the hearing before the inspectors that you never had these lights in use before; is that correct? A. Yes.

Q. This evening then, on the 12th of January, was the first time these lights had ever been lighted or put in service on that ship?

A. I don't know whether it was the first time they had ever been lighted.

Q. So far as you know it was?

A. No, I don't think so. I think they would have been tried probably that day, knowing we had to use them.

Q. So would I, but I am asking if they had ever, so far as you know, been lighted before this day?

A. Not so far as I know.

Q. And they had never been in use on that ship before the 12th of January? A. No, sir.

Q. Did you inspect them before they were put in use? A. No, sir.

Q. Why did you use them on this occasion?

A. Because our dynamo was broken down.

Q. When did it break down?

MR. HAYDEN: We object to that as immaterial.

A. About a week before we left port.

Q. When did you first learn it would not be prepared and that it would be necessary to use these auxiliary lights which you have brought in evidence?

MR. HAYDEN: I object to this as immaterial.

A. Four or five days before we left Tacoma.

Q. You knew four or five days before you left Tacoma? A. Yes sir.

Q. Did you take any precaution yourself to test these lights when you knew you would have to rely on them? A. I did not.

MR. HAYDEN: We make the same objection.

Q. Did you examine them that night when they were lighted and put in place? A. I did not.

Q. Do you know what oil was used in them?

A. I do not of my own knowledge. I know by hearsay.

Q. Who did fill and light these lamps?

A. I believe it was the third officer, and one of the quartermasters.

Q. What is his name?

A. Mr. Sterling, and to assist him he had a quartermaster named Taylor.

Q. Did you take any precaution to examine these lights before the time when you went up on deck after hearing the passing signal?

A. I looked at the port light as I went up.

Q. Did you prior to that time take the precaution to examine the lights?

A. I think one time before that when I came down off the bridge to write my letters, I took a look at both of the side lights, but I am not absolutely certain of that.

Q. Now, you were writing a letter in your cabin immediately under the flying bridge? A. Yes, sir.

Q. Just before you went up on deck, as you have testified? A. Yes, sir.

Q. Did you hear the passing signal given to the Flyer and the Flyer's answer?

A. I heard our signal; I did not hear his answer.

Q. Did you pay any attention to that? A. No, sir.

Q. How long after that was it you heard the signal which prompted you to go up on the bridge?

A. Oh, perhaps two minutes.

Q. When you heard that signal you went up?

A. Yes, sir.

Q. What caused you to do that?

A. I heard the signal given and I heard the helm go over.

Q. The signal meant that you would port your helm and go to starboard? A. Yes, sir.

Q. So that that did not excite surprise, but what made you go?

A. As soon as I heard the helm go over and the signal at the same time, I generally go and see what it is.

Q. Why? A. Precaution on my part I suppose.

Q. Did the fact that the helm go over immediately after the signal was blown indicate to your mind any reason why there might be danger ahead? A. No.

Q. Why did you go up?

A. Simply because that is a thing I always do, and very often I go out simply on hearing the signal whistle, without hearing the helm.

Q. Was it the signal or the helm that prompted you to go up at that time? A. Both of them.

Q. When you came out of your cabin, you went over to the port side? A. Yes, sir.

Q. And examined the light? A. Yes, sir.

Q. As you came out of the cabin, what was the first thing you saw or observed?

A. I saw this steamer on the port bow.

Q. How much was she on your port bow at that time? A. About a point or a point and a half.

Q. And about how far distant? A. About a mile.

Q. In that position could you see her range lights?

A. I saw the range lights and green light.

Q. You saw her green light and range lights when you were yet on your chart room deck? A. Yes, sir.

Q. As you came out of your cabin?

A. As I came up the ladder on the chart room deck.

Q. You had to go up to get on the chart room deck?

A. Yes, sir.

Q. This is the same deck as the lower bridge?

A. Yes, sir.

Q. And that was the first time you saw the ship ahead of you? A. Yes, sir.

Q. In your situation there wasn't anything to indicate any possible question about the passing of the ships, to your mind? A. Oh, no.

Q. Why did you go over and examine your port light if you had no anxiety?

A. Knowing we had oil lamps I was anxious to see if they were burning.

Q. You felt some uncertainty about the lights?

A. No, not at all.

Q. Why did you examine them?

A. I wanted to be sure of it.

Q. Then you went up at once onto the flying bridge?

A. Yes, sir.

Q. Who did you find there?

A. Captain Beecher and the chief officer.

Q. Where was Captain Beecher at that time?

A. I could not tell; somewhere about midships.

Q. Did you speak to him?

A. I think I spoke to the chief officer first.

A. What did you say?

A. I asked him to go down and look at the port light.

Q. You had just looked at it yourself? A. Yes, sir.

Q. Did you distrust your own vision?

A. Not at all.

Q. Why did you ask him?

A. Simply to verify what I saw.

Q. But you did not have to have a man instantly verify what you had seen?

A. I did so; whatever struck me at the moment, I did it.

Q. Did you have any conversation with Captain Beecher then?

A. I had asked him what that steamer was doing.

Q. Why did you ask him that question, couldn't you see? A. Of course I could see.

Q. Then why did you ask him?

A. Because I did not know the previous position of this steamer, I had only just come on deck.

Q. But her range lights showed the position?

A. Yes.

Q. And the direction she was going?

A. Yes, sir; her range lights were opening so that you could see her swinging on her starboard helm.

Q. That gave you what information; did you ask him the question because you felt doubt as to the navigation of your ship?

A. Not at all; I had perfect confidence in Captain Beecher.

Q. But did you have doubt because of the situation of the other vessel and the fact that they did not answer?

A. No, not at that time.

Q. Did you then know he had not answered you?

A. No, I did not know it at that time.

Q. You heard your whistle? A. Yes, sir.

Q. You came right out on deck? A. Yes, sir.

Q. You heard no answer from the other ship?

A. He might have blown his whistle when I was inside; I did not hear the Flyer's whistle inside, and it may have been the same.

Q. Did Captain Beecher tell you that this vessel had not answered him when you asked him?

A. Yes, sir.

Q. Did he tell you that before you sent your man down to look at the port light?

A. I forget whether it was before or after. I think it must have been after.

Q. How long were you on deck before the second signal was given?

A. I came up on the bridge just as the second signal was blown.

Q. And the second signal had been given before you

sent him down to verify the correctness of your examination of the lights?

A. It was at the same minute that I sent the mate down.

Q. You immediately then after getting on the bridge heard the second port whistle from your ship, and immediately sent your mate down to examine your port light?

A. I could not get it quite so close as that. The whistle was blown after I arrived on the bridge, and I sent the chief officer to look at the light, but whether I sent him down before or after the whistle was blown I could not say.

Q. Can you say now whether that whistle was blown immediately on your getting on the bridge or before or some seconds afterwards?

A. Probably some seconds afterwards.

Q. Was it blown before or after your conversation with Captain Beecher?

A. I could not tell that either.

Whereupon an adjournment was taken until 10:15 A. M. tomorrow.

Thursday, 10:15 A. M., February 15th, 1912.

CAPTAIN GEORGE T. CRERAR, being recalled, testified as follows:

CROSS EXAMINATION CONTINUED.

(BY MR. HUGHES.)

Q. Did you hear an order given by Captain Beecher to port the helm after blowing of this second passing signal, the one which was blown as you say immediately after you came upon the bridge? A. I did.

Q. That was given shortly or promptly after the whistle, was it? A. Yes.

Q. And about how long a time did you state elapsed before the next passing whistle by your boat?

A. Between the second and third?

Q. The second after you came on board but the third given the Virginian?

A. About a minute or a minute and a half.

Q. By that time were you on the port helm, or had she steadied her helm?

A. I think she was still swinging on her port helm.

Q. Were you holding any conversation with Captain Beecher during this interval? A. No, sir.

Q. Did you stand apart from him on the bridge?

A. Two or three yards apart I suppose.

Q. But there was no conversation between you?

A. I cannot recall any.

Q. Or between you and the other officer? A. No.

Q. After the third whistle, did he give a further order to port?

A. I cannot recall whether he did or not.

Q. About how long a time elapsed after the third whistle before the danger signal was given by your boat?

A. From three-quarters to a minute.

Q. During all that time were you on the port helm?

A. I think so; I don't think the helm was steadied.

Q. Do you recall whether any order was given to steady the helm? A. I do not.

Q. At the time of giving the danger signal, Captain Beecher gave the signal to reverse?

A. To reverse the engine, yes.

Q. At that time how near were you to the Virginian? A. I should say about a quarter of a mile.

Q. As much as a quarter of a mile, you think?

A. About that, I think.

Q. How long a time elapsed, according to your judgment, between the danger signal and the collision?

A. About a minute.

Q. According to your figures then you were on the bridge from three to four minutes before the collision occurred? A. Yes, sir.

Q. During that time how many points had your ship swung to starboard?

A. I could not tell; I did not look at the compass.

Q. You are an experienced navigator, and you are all the time, according to your testimony, on the port helm, and you were familiar with the boat. What would be your best judgment as to how much she would swing in that time? A. About three points.

Q. What is the usual speed of your ship when laden as it was then? A. About nine knots.

Q. Why had you not developed more than six and one-half knots that night?

A. I think it was due to the strangeness of the firemen with the coal that we got here. None of my firemen had ever had the kind of coal we got here, and I think it was owing to their unfamiliarity with it and the way it should be applied to the fire.

Q. You would gradually develop more speed, however, would you not?

A. I do not think so. I think the steam had been going back for some time.

Q. What makes you think that; were you in the engine room?

A. No; but I could hear the revolutions of the ship without going to the engine room.

Q. How does your ship handle when the engines are stopped after she is under three-fourths speed, say six or six and one-half knots an hour, on the port helm?

MR. HAYDEN: I object to that question; I think there is no evidence that the vessel was going six and one-half knots.

(Question read.)

A. She would answer the helm all right, for some time afterwards.

Q. How long? A. Until she nearly lost her way.

Q. With the heavy load, how long would she keep her way in the water, that is, your ship?

A. Going at that speed?

Q. Yes. Without reversing, I mean; simply stopping the engine? A. About a half a mile.

Q. That would cover a period of probably ten minutes?

A. I would not like to be positive about that.

Q. And in gradually stopping, she would keep headway for ten or fifteen minutes, wouldn't she?

A. Well, that is something I have never tried.

Q. She would keep headway longer when she is laden than when she is light? A. Surely.

Q. Is your ship a screw propeller? A. Yes, sir.

Q. Single or twin? A. Single.

Q. How does the single screw affect her action on her helm, port or starboard, when she has momentum?

A. Going ahead, it does not affect her much either

way, when going full speed ahead, the tendency of course would be to throw her head to port.

Q. The tendency of the one screw would be to throw the head to port?

A. Yes, with a right hand screw.

Q. It is a right hand screw, is it? A. Yes.

Q. Suppose you had the helm steadied and the engine stopped, with a right hand screw, the tendency is to throw the head which way?

A. With the propeller stopped, she would go straight along.

Q. How does she act when the engines reverse?

A. Throws her head to starboard.

Q. With the helm steadied? A. Yes, sir.

Q. When she has some momentum forward, will she not throw her head to starboard, with the engines stopped—I mean with the engines reversed?

A. With the engines reversed.

Q. Before her headway is overcome?

A. With the engines reversed and with headway, it would throw her head to starboard.

Q. And her stern to port? A. Her stern to port, yes.

Q. And that is increased of course with a port helm; that tendency to throw the stern to port would be increased with a port helm when you reversed, before the headway of the ship is overcome?

A. No, I don't think so.

Q. After she overcomes headway on the reverse of the engines, with a port helm, how does the ship manoeuvre? A. Immediately after?

Q. Yes; as soon as she begins to get sternway?

A. She would still throw her head to starboard after getting sternway.

Q. With a port helm? A. Yes, sir.

Q. How long would she have to run astern?

A. She would have to have pretty good sternway before she would answer her helm against the throw of the propeller.

Q. Is that on account of its being a right hand screw?

A. Well, when you reverse your engines you give your ship's head a swing to starboard, which would take

some time to overcome, even after she had sternway.

Q. After the third passing signal was given to the Virginian, the second one after you came on the bridge, did you have any conversation with Captain Beecher?

A. I cannot recall that, whether I had.

Q. Don't you remember whether you conferred with him at all? A. No, I do not.

Q. What is your best recollection; did you or did you not confer with him? A. I cannot remember.

Q. Did you confer with your first officer about the situation? A. That I cannot remember either.

Q. You still had only the green light of the Virginian at all times after you came on the bridge?

A. Yes, sir.

Q. And her range lights were open? A. Yes, sir.

Q. So that it was apparent to you all the time that she was crossing your course? A. It looked like that.

Q. What conclusion did you reach as a navigating officer from her failure to answer your passing signals?

MR. HAYDEN: That is objected to as immaterial.

A. I do not know that I came to any conclusion.

Q. Did you take any further steps to ascertain whether your lights were visible? A. No.

Q. Did you have any flare lights on your bridge?

A. No.

Q. You had none at all? A. No, sir.

Q. No flash light of any kind? A. No, sir.

MR. HAYDEN: That is objected to as immaterial.

Q. Did you have any lanterns there?

MR. HAYDEN: I want the same objection entered.

A. Not to my knowledge.

Q. Did you attempt to give any other signal to attract the attention of this vessel than those which you have named, the whistles given? A. No, sir.

Q. Did you know anything about the exact locality you were in, as to the sea room you had or the depth of the water there at this time?

A. Not at that time, I had not.

Q. Did Captain Beecher say anything to you about that?

A. I cannot recall whether he did or not.

Q. When the two vessels collided, you were still on the bridge? A. Yes, sir.

Q. You were watching the vessel ahead of you all the time? A. Yes, sir.

Q. How long prior to the actual collision was it apparent to you that the collision would take place?

A. Shortly after we had given the danger signal.

Q. Then say from a half a minute or such a matter?

A. Twenty or thirty seconds.

Q. During that time was there any alarm or signal or flash or flare lights or anything given from your ship, or warning of any kind? A. Not to my knowledge.

Q. The two ships came together so that the Virginian struck six or eight feet back of your stem on the port side as you think? A. Yes, sir.

Q. And about three points on your port bow—she was heading? A. Three or four, I would think.

Q. You gave your testimony before the inspectors of boilers and hulls in Seattle recently did you not?

A. Yes, sir.

Q. Do you recall that they asked you to indicate the angle of the collision, giving you two small models?

A. Yes, sir.

Q. And that you located them by those models, indicating the angle at which they came together?

A. Yes, sir.

Q. At that time the question was asked you by Captain Whitney whether that angle was about three points, and you answered about that (reading): "Q. As you think they lay down there", and you answered, "Well, I would say a little less than three points; two points." Is that correct? A. That is correct.

Q. Did you testify on yesterday that you examined the lights of your vessel at any time except when you came out of your cabin and went out on your bridge after the first passing signal was given the Virginian. Did you examine the lights at any other time?

A. After the first time I looked?

Q. Before that; at any other time than that one time? A. From the time of leaving Tacoma?

Q. Yes.

A. I have some recollection of looking at them be-

fore I went down to write my letters, but I would not be sure about it.

Q. At the hearing before the inspectors, you testified, when asked whether you had examined them on more than one occasion, and you answered, "Just on the one occasion before the collision". Do you think that was the correct answer?

A. As I said, I cannot remember. I have a hazy recollection of looking before I went to write, but I would not be certain about it.

Q. Cargo was on the main deck was it? A. Yes, sir.

Q. You testified yesterday as to the height of the bridge, the lower bridge, and the lights above the main deck? A. Yes, sir.

Q. When did you make any measurements to determine that? A. About a week ago.

Q. That was after the cargo had been removed from there? A. Yes, sir.

Q. How did you measure it? A. With a tape line.

Q. Did you use a plumb line? A. A tape line.

Q. From what point did you measure?

A. The far side of the cabin.

Q. You measured from in front of the cabin up to the foot of the bridge? A. Yes.

Q. Did you take a measurement as to the height of the screen board above the lower bridge deck?

A. No, sir, I did not.

Q. How did you get at the figures you gave yesterday?

A. On my judgment, I think. I measured the height of the lamp from the main deck.

Q. The lamp sets right in the screen? A. Yes.

Q. You took a measurement with the tape of the height of the lamp over the main deck? A. Yes, sir.

Q. That is you measured the height from the main deck to the bridge deck and then separately measured the height from the bridge deck to the lamp?

A. No, I measured from the main deck to the lamp.

Q. How did you get at that?

A. With the tape line.

Q. Did you drop a tape line from the bridge deck?

A. Yes, sir.

Q. Did you use a plumb to see that it was straight out? A. Yes, sir.

Q. Dropping it right straight down from the screen where the lamp is or from the lamp to the main deck?

A. Not from the lamp.

Q. From what did you drop it?

A. From the line of the height of the lamp.

Q. Then in front of the lamp; the lamp sets back a little so that you had to take a point on the railing of the lower bridge and drop your line on a level with the lamp to the main deck? A. Yes, sir.

Q. And used the plumb line so that it would straighten out? A. Yes, sir.

Q. How far inside the railing was that plumb lead when it touched the deck below?

A. About three or four inches.

Q. Did you measure that?

A. No, but I would say that it was three or four inches.

Q. You estimated as you looked over from the deck above? A. Yes, sir.

Q. You took no precaution to have that measured?

A. No.

Q. What do you say is the width of the railing?

A. The main rail?

Q. The main rail to the main deck?

A. Eleven and one-half inches.

Q. Does the ship have an in board, does it turn in from that rail up to the lower bridge deck; that is from the outside rail? A. Yes, it turns in a little.

Q. How much is the end of the lower bridge inside of a vertical line extending upward from the outside of the rail?

A. It would be the breadth of the rail plus that three or four inches.

Q. But the upper bridge is in a good deal more than that, isn't it. The end of the upper bridge is considerably more inside of the outside line of the ship at the railing than 15 or 18 inches, isn't it? A. Oh, no.

Q. Please examine the photograph I hand you, Captain, and answer me whether that correctly shows the

ship Strathalbyn, looking from forward back at the bridges of the ship on the main deck?

A. Yes, I would say so.

Q. The letter A here represents the port end of the flying bridge, does it? A. Yes, sir.

Q. The letter B represents the port end of the lower bridge? A. Yes, sir.

Q. And that letter B is just about the screen board, isn't it? A. Yes, sir.

Q. Really I think on top of it? A. No, right on it.

Q. The screen board comes up to the middle of the letter B? A. Yes.

Q. And it is visible in the shadow there, that line extending from the middle of the letter B downward is the screen board, is it?

A. Yes, I suppose that is the screen.

Q. Now the men whose pictures are shown here are standing on the main deck? A. Yes, sir.

Q. And the port holes seen back of it are the port holes of your cabin? A. In the saloon.

MR. HUGHES: I offer this in evidence.

Whereupon the said photograph was marked as Respondent's Number Four.

Q. Looking at respondent's exhibit four(the railing on the port side of the ship is shown here at the letter C? A. The hand rail.

Q. That is the main rail on the port side on the main deck? A. Yes, sir, just above the deck.

Q. How much is that above the deck?

A. About four feet; I have not measured it.

Q. And that rail extends all along the port side to the forecastle head? A. Yes, sir.

Q. Now, captain, did you have anything to do with the loading of the deck cargo on the fore deck?

A. No, sir.

Q. You were about there, however, while it was being loaded? A. I was aboard every day.

Q. Was it loaded right up against the saloon cabin or was there an alley-way between?

A. There was no alley-way; it was right up against the saloon cabin, with the exception of two or three

inches to keep the chafe of the wood off the front of the cabin.

Q. Was it loaded right up against the ship's rails on the port and starboard side? A. No, sir.

Q. What intervened? A. The stanchions.

Q. What kind of stanchions?

A. The usual lumber stanchions.

Q. Well, what dimensions? A. Six inches by ten.

Q. These stanchions were set upright just inside of the railing, were they? A. Not quite upright.

Q. Nearly upright, enough to hold the ship's cargo there?

A. It is the practise to let the stanchions tumble home a little at the top.

Q. Just like the ship tumbles home?

A. Much the same.

Q. At what spaces were they set along the rail?

A. Well, I could not say; ten or twelve feet.

Q. Did they extend above the deck cargo in front?

A. Oh, yes.

Q. I will ask you to examine Libelant's Exhibit B, being a photograph of this ship taken after the deck cargo in front had been removed? A. Yes.

Q. The deck cargo in the aft deck was still on board when this photograph was taken? A. Yes.

Q. Now I will ask you if the stanchions appearing there which held the deck cargo in the rear were the same kind as were used to hold the deck cargo on the front deck, or forward deck?

A. The same diminsions, six by ten.

Q. And they stood upright in the same way?

A. That I could not tell.

Q. You saw it day after day?

A. Yes, but I didn't take particular notice.

Q. But I will ask you now to look at this photograph; you said yesterday it was correct; now then I will ask you if that photograph is correct.

A. Yes, I think so.

Q. Looking at this photograph and seeing those stanchions, tell me whether the stanchions which held the forward deck cargo were located about the same as those which you now see on the aft deck cargo?

A. No, I do not think I could tell that; I could not say that.

Q. About how much did they extend above the top of the cargo?

A. The stanchions were not all the same length. I think some extended about four feet; some about six feet.

Q. You say these were six by ten? A. Yes, sir.

Q. Not having observed very carefully, how do you know that?

A. The usual stanchions; it is the stanchion that is always used.

Q. Which side of the stanchion was placed against the rail, the six inch dimension or the ten inch dimension?

A. The ten inch dimension.

Q. Put right up against the rail?

A. On the starboard side.

Q. Well, on the port side, put up against this pipe?

A. No, we could not put the stanchion up against the pipe. We put a chock in between the rail and the stanchion to protect the pipe.

MR. HAYDEN: What pipe is that?

MR. HUGHES: The one he has testified to on the port rail, shown on Exhibit Number 4.

Q. Were they put so that the ten inch facing was parallel with the rail? A. Yes, sir.

Q. And these stanchions were placed there for the purpose of holding the cargo so that it would not spread out and fall off the ship? A. Of supporting the cargo.

Q. I asked you yesterday how much the port rail of the ship came in toward the stem in the distance between the saloon cabin and the forecastle cabin; can you tell me any better now than then? A. No.

Q. Did it follow in at all? A. Yes.

Q. Several feet?

A. I could not say; the ship naturally gets narrower the further forward you go.

Q. You testified before the inspectors that the distance between the saloon cabin and the forecastle bulkhead was from 90 to 100 feet; is that about right?

A. I think so. I never measured it.

Q. And how much distance would be from the forecastle bulkhead to the stem of the ship?

A. I do not know that.

Q. How long is the whole of the ship, do you know that? A. Yes.

Q. What is it? A. 387 feet.

Q. How much is the front end of your saloon cabin in front of the center of your ship?

A. I cannot tell that.

Q. So you have no way of giving any estimate or judgment as to the distances in front of your saloon cabin to the stem of the ship or forecastle bulkhead?

A. No; it would only be a guess, if I made it.

Q. How far was your foremast in front of the ship?

A. It would only be a guess.

Q. Well guess; you should be able to form some sort of judgment after commanding that ship for two years?

MR. HAYDEN: That is objected to as not proper cross examination.

Q. Isn't it pretty nearly half way between that bridge and the forecastle bulkhead?

A. Yes, about half way I would say.

Q. And how high is that mast up to the cross tree?

A. 45 feet.

Q. These lights were burning what kind of oil that night? A. Colza.

Q. That is merely your information. you don't know personally? A. No.

Q. Did you ever examine or inspect these lights prior to that collision? A. No, sir.

Q. Do you know personally where they were kept in the ship during the two years that they were carried without being used? A. In the lamp locker I suppose.

Q. But you do not know personally?

A. I do not know.

Q. Did you ever inspect them at any time after the collision and before they were brought into court here?

A. No, sir.

Q. Then you know nothing about their condition except as they appear here now? A. No, sir.

Q. You did not see them put up at night?

A. No, I did not.

Q. Do you know whether they have been used since that night of the collision? A. I do not think so.

Q. When your vessel went over to Victoria, she went by day? A. Yes; they were using electric lights.

Q. Well, she went by day anyway?

A. Yes, but it was dark before we got to Port Townsend and we had occasion to use the lights.

Q. You stopped at Port Townsend over night?

A. Yes, sir.

Q. Do you know where the oil was obtained which was used in these lights?

A. Out of the tank, I suppose.

Q. Well, it was not always in the tank, was it; where was the oil obtained that was on board the ship?

A. Where was it supplied? In England.

Q. And when was this colza oil obtained?

A. In July last year.

Q. You are sure about that? A. I think so.

Q. Are you sure about it? A. I am not sure.

Q. Whose business would it be to get that?

A. The chief officer would be able to give you more information about that?

RE-DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. You say you are not sure where this colza oil was obtained; was it reported to you to have been obtained in regular course of business last July?

MR. HUGHES: I object to that as calling for hear-say evidence.

A. I am sure that colza oil was supplied to the ship in England, last July.

Q. That is you know that in the ordinary course of the ship's business, as master?

MR. HUGHES: That is objected to as leading.

A. In the ordinary course of the ship's business; it is my duty to pass the order for all these stores.

Q. And did you order colza oil at that time?

A. Colza oil was ordered on the store list.

Q. You said that the stanchions when they are placed, tumbled home in the ordinary way; is that so?

A. That is the usual practise.

Q. That is before the lumber loaded on the vessel is completed, on the deck load? A. Yes.

Q. When the deck load is completed, is anything else done with it, to make it fast? A. Yes, it is lashed.

Q. Explain please how it is lashed?

A. It is lashed with—in case of the forward deck, and the after deck precisely the same, with three spans on each side, which are made fast onto the stanchions on the bulwarks, and the bights are brought over on top.

Q. On top of what?

A. Over the top of the deck cargo.

Q. Where are these rings or chains on the bulwarks with respect to the main deck?

A. They are right down on the main deck.

Q. And the chains are brought up over the lumber?

A. They are wires; they are brought over the lumber and set up tight by the winches.

Q. How are they set up tight by the winches?

A. There is a block put on each bight. I could explain it better by a drawing.

Q. Well, say this is your house and this is your forward deck load; explain how that lumber is made fast on your deck?

A. There is a block in each of these bights (indicating), through which the wire goes, and is taken down from the lead block to the winches, down here, and set up tight.

Q. Show that here? A. Here (indicating).

Q. When they put that lumber up, then it is set up with steam power? A. Yes, sir.

MR. HAYDEN: I will call that sketch identification 0.

Q. Do they exert much power on that to set it up?

A. Yes, certainly.

Q. Tell us how it is done?

A. They take the wire down to the winch and have a man at each of the bights with a hammer, who hammers the wire as it is hove on the winch.

Q. That is at each block where the wire runs to the block? A. Yes, sir.

Q. And he hammers it for what purpose?

A. To tighten it up.

Q. So that it will go through the block?

A. So that it will come through the block.

Q. What effect has that on the lumber?

A. It binds the lumber close together of course.

Q. Does it make it draw in closer together?

A. Certainly, I should say so.

Q. Now after it has been drawn together by this process, what is done with the stanchions?

A. They each have a separate lashing as well.

Q. What kind? A. Wire lashing set up with tackle.

Q. Tackle attached to what?

A. Attached to the stanchion above the deck load.

Q. And how is it set up?

A. Also set up with the winch.

Q. What effect has that on the stanchion, or the deck load?

A. It tightens the stanchions up against the deck load, which has been previously drawn together by the bights.

Q. What does that do to the stanchion?

A. It draws it inboard, of course.

Q. How far was this first stanchion forward of the light on the port side, if you remember?

A. To the best of my recollection, ten or twelve feet.

Q. When you got into port after this collision, did you make any measurement at that time?

A. Not at that time.

Q. Why not? A. Because I was too busy otherwise.

Q. What were you occupied with?

A. Arranging our discharge of the ship and pulling her on the beach here; I had my hands full.

Q. I intended to ask you on direct examination whether or not you had any water in your hold when you arrived at Tacoma after this collision? A. Yes, sir.

Q. What was the condition of your number one hold? A. It was full level with water outside.

Q. Did you have any water in number two hold?

A. Not on arrival here, but we had before we put her on the beach.

Q. In other words the water commenced to come in through the bulkhead between the holes?

A. No, the water ran down the hatches. The ship listed until the hatches got under water.

Q. And the water went down the hatches? A. Yes.

Q. The main deck hatch? A. Yes, sir.

Q. How much water did you have in Number 2 hold? A. Eighteen feet.

Q. How far aft does number two hold extend?

A. I could not tell that exactly; somewhere underneath the saloon.

Q. You say, do I understand, that when this line was dropped down from the light screen, that from the inside of the light screen it showed when the line was dropped down from the inside of the light screen, that it was some three or four inches inside the rail?

A. Yes, sir.

Q. Do you know whether this vessel was making six and one-half knots from Robinson's Point on?

A. Judging by the sound of the propeller and the look of the water outside, I should say she was going less.

Q. What would you say she was making?

A. Something under six.

RE-CROSS EXAMINATION.

(BY MR. HUGHES.)

Q. When you left the port of Tacoma that night were you on an even keel?

A. No, we had a list to starboard.

Q. How did that happen?

A. That is a usual thing with lumber ships. I never loaded a cargo yet without having a list, on any ship I have been on.

Q. Do you go to sea with a listed cargo?

A. Sometimes.

Q. What caused the list; was it bilge water?

A. No, the deck cargo.

Q. The deck cargo? A. I expect so.

Q. You carry that list all through the voyage?

A. Oh, no, not necessarily; sometimes the list is out before you get down to the straits.

Q. What causes the list to pass off?

A. Working the helm one way and another.

Q. She had a considerable list to starboard did she?

A. Yes, sir.

MR. HAYDEN: Q. About what list did she have to starboard? A. Six degrees.

Q. When she started? A. Yes, sir.

(BY MR. HUGHES.)

Q. Where did you unload your cargo?

A. The previous cargo?

Q. The cargo you had on board that night?

A. The lumber cargo?

Q. Where did you unload that cargo?

A. Partly here and part at Esquimalt.

Q. What portion did you unload here?

A. About a million feet.

Q. And how much at Esquimalt?

A. We have not ascertained that yet. That will be ascertained when we reload, but I should say about a million and a half, roughly.

Q. But you had more than two million and a half?

A. Yes, but we have some on the ship yet.

Q. In the hold? A. Yes.

Q. And you are not intending to unload that? A. No.

Q. Did you unload any cargo from the ship here, except your cargo carried on the forward deck?

A. Oh, yes.

Q. What other cargo did you unload?

A. We discharged lumber between one and two 'tween decks; part from number one hold, and part of the after deck, sufficient to get the hole made by the collision above the water.

Q. I want to say I am asking these questions so that we may investigate as to the cargo. Do you testify now that you only unloaded one million feet here?

A. I would not be exact in the figures. That cargo will be remeasured on reloading. This is simply an estimate.

Q. Where did you unload it here?

A. Partly out in the Bay and partly at the Milwaukee dock.

Q. Where was it taken, that which was unloaded in the Bay? A. To the Milwaukee dock.

MR. HAYDEN: We object to all this as improper examination and immaterial.

Q. And it is all at the Milwaukee dock that you unloaded in this city? A. Yes, so far as I know.
(Witness excused.)

CAPTAIN HERBERT F. BEECHER, being recalled, testified as follows:

FURTHER DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. You were asked yesterday by Mr. Hughes to position the Strathalbyn as it appeared to you on the night of the collision? A. Yes, sir.

Q. And you put a black mark down, marked B?

A. Yes, sir.

Q. And I asked you afterward if you would say that was the position, and you said that —(interrupted).

MR. HUGHES: I object to this as leading, mere repetition.

MR. HAYDEN: (Continuing question)—and you said it was somewhere between that point, and moved your finger over to the course? A. I did, sir.

Q. Since that time have you thought over the situation? A. I have, sir.

Q. Do you wish to make any correction as to the position of the Strathalbyn as she must have been, from what you know to be the facts?

A. I would like to make a correction there, yes, sir.

Q. State what correction you desire to make; state it in your own way, without my asking questions?

A. I was figuring last night the speed and the time, and the difference between my time which was my own watch, and the engine room time, and it occurred to me that I could not be quite as far along on this position as I had thought from my observation at the night time, owing to the shore line looking at that time very close. As a matter of fact we got under way, by my watch, at 6:12. We were here (indicating) at 7:28; that is at Robinson's Point, had the light abeam and hauled on to my course. At the time I was making then, to make the distance from Browns to Robinsons at the previous figures, I could not be making more than 608 feet to the minute, and figuring that all out, I placed myself in my

mind then, on the chart afterward, at a position about there (indicating).

Q. You say there was 12 minutes difference between your time and the —(interrupted).

A. And the time from the engineer's log, according to his bells.

Q. And the engineer's log showed the collision occurred at 7:38?

MR. HUGHES: Object to that as improper and immaterial, and leading.

A. Yes, sir, that is it.

Q. Is that how you happened to figure your distance?

A. That is the way I figured it out, and that would place me here (indicating).

Q. What time then would the collision have occurred by your time?

A. At about 7:50, by my watch.

Q. I want you to take, as you told me this morning, and put a mark down there on that chart as near as you can tell at the time you gave your first whistle to the Virginian, at the rate you were going?

A. Here (indicating).

Q. How do you figure that?

MR. HUGHES: We object to this as incompetent.

A. Figuring my previous speed was at the rate of 608 feet a minute, I make the same figures and carry them along and that would bring me along a mile and three-quarters from Robinson's Point, and that was the place.

Q. Is that at the time of the collision?

A. No, at the time I gave my first whistle.

Q. Well mark this "B-1", a point in the circle?

A. Yes, sir.

Q. Is that correct? A. Yes, sir.

Q. Now what did you do?

A. I blew my first whistle to the Virginian and ported my helm.

Q. And headed towards what point?

A. Inside of Pully Point.

Q. And went for how long? A. About a minute.

Q. Put down the distance you would be inside Pully Point as you think you were for that minute's run?

A. Six hundred and eighty feet—I could not measure it. It would be a little less than half a quarter, but there is no scale here. I would judge that would be the distance.

Q. Put your rule down so that you will get the directions as well as the distance?

A. That of course is not absolutely as to a foot, but I would judge it would be there.

Q. At this point? A. Yes, sir.

Q. I will put that in a circle and mark "B-2".

A. Yes, sir.

Q. Now as I understand your testimony, that is the point where you stopped the engines?

MR. HUGHES: Object to that as leading.

(Question withdrawn.)

Q. I want you to state it in your own words?

A. I blew my first whistle and ported the helm, and at this point I blew the second whistle, stopped the engines and blew again, this point two.

Q. And in what direction did you head at that time?

A. I headed in shore at about the same direction as marked on the chart, where the gravel pit is.

Q. Mark that on the chart?

A. About here, judging from this hill back on Pully Point. At that time I would not be going more than 400 feet to the minute, and I could not measure that, but it is much less than the other. It would be about here (indicating).

Q. This line that runs out, shaped like an arrow, and marked "Beecher 3"? A. Yes.

Q. Now do I understand that, to be what?

A. That is the position where she was going with her headway.

Q. And this is the general direction? A. Yes.

Q. This extension of dotted lines are simply the directions you think you were going?

A. Yes, sir; not from the compass, but merely from land bearings taken by my eyes. Then on my third whistle, I backed at full speed and she still kept swinging to port with her backing wheel, and at the time of the

collision she was heading in line like this (indicating), and I could not have been going any distance at all when the collision occurred. I was practically stopped, if not having sternway, stopped.

Q. Now on these lines, to make the testimony clear, mark one for the first direction; that is the direction you were heading when you first ported? A. Yes, sir.

Q. Now mark the line that shows the direction when you second ported? A. X-2.

Q. Mark the line you were headed at the time of the collision? A. X-3.

Q. Is there anything more you want to say about that correction; if not, that is all.

CROSS EXAMINATION.

(BY MR. HUGHES.)

Q. You talked this over last night, did you?

A. Yes, sir.

Q. Did you think it over in connection with Mr. Hayden or anybody else?

A. In the testimony yesterday—

Q. I am asking the question.

A. I was leading up to that. In the testimony given yesterday there were so many other things asked that when I got out of the court room I was thinking of our speed, and I then spoke to Mr. Hayden and we talked of it.

Q. Didn't Mr. Hayden speak to you and tell you that you had put yourself in an impossible position on this chart?

A. I don't think he did, no, sir.

Q. Didn't he tell you it would be necessary for you to correct it? A. No, sir.

Q. Didn't you go to his office and take the chart and go over this matter and fight it out?

A. I was in his office this morning, and we talked it over.

Q. And you platted it out?

A. I figured it out last night and this morning.

Q. What time did you have that night?

A. I had Suter's time in Seattle, 1:20; I always compare my watch with his chronometer.

Q. That would be local time? A. Yes.

Q. And that is the same time that the Flyer has?

A. I suppose so; I do not know.

Q. You compared your watch that day?

A. No, sir. I compare my watch every time I go by in Seattle; they look at my watch and give me the seconds it has lost or gained.

Q. Does your watch vary? A. A very little.

Q. It is a fairly accurate chronometer?

A. It is a splendid watch. We run from here to Esquimalt on it as a chronometer.

Q. It varies very little? A. Yes, sir.

Q. Your watch then would not be more than a few seconds from the standard Seattle time? A. A very few.

Q. Your observations show you that Suter's chronometer would not vary more than a few seconds from the others in the city?

A. He gets it every day or so.

Q. You have noticed other chronometers and they vary a very few seconds? A. A very few.

Q. Did you note during that evening at all the difference between your time and the first officer's time, or the ship's time?

A. No, sir, I never knew the time he had at all.

Q. Did the ship have a clock for the quartermaster?

A. No, sir, there was no clock on the flying bridge where I was.

Q. Do you know where they kept the ship's time?

A. It was in the wheel house below, on the lower bridge.

Q. Was there anybody in the wheelhouse below?

A. Not all the time, the quarter, or the watch, generally stood there.

Q. Did you compare your time that night with the ship's time? A. No, sir, I did not.

Q. You had no means of knowing how it compared with the ship's time? A. No, sir.

Q. Did you take your own time by your own watch?

A. I did, sir.

Q. When? A. On starting.

Q. And left here at what time?

A. 6:12, by my watch, under way.

Q. You had left the dock?

A. We had left anchorage, and as soon as they informed me that the anchors were weighed, I went ahead slow, and then went ahead full speed when we got the hawse.

Q. And then took your time?

A. When we went ahead slow, when we were under way.

Q. Did you make a record of that yourself?

A. I carried it in mind, and—

Q. How did you come to remember it?

A. I keep the time of my arrival and departures.

Q. But you made no record in any memorandum book or log book?

A. I have a little pocket log which I put it in every day, and where I am, the weather and so forth.

Q. Did you make a record in your pocket log?

A. Yes, sir, "6:12, under way".

Q. Will you show that to me? A. Yes, sir.

Q. Did you take the notice of the time that you had Point Robinson abeam? A. Yes, sir.

Q. You did not record it here? A. No, sir.

Q. When did you record this here, was it after the collision? A. No, sir.

Q. Did you record it in this book?

A. On getting under way. After the collision, I recorded everything else, "leaving north end—and under way, 6:15 P. M."

Q. That is the last entry you made?

A. Up until after the collision.

Q. How long after the collision did you make any other entry?

A. I made the other entries after we got back to Point Robinson.

Q. Now how do you know what time you passed Point Robinson if you made no note of it?

A. I looked at my watch.

Q. You are speaking from recollection as you did not record it?

A. The mate recorded it; he asked the time.

Q. Did you tell him what time?

A. I told him the time, yes.

Q. What time did you tell him?

A. Seven twenty-eight when we rounded Robinsons.

Q. That was your time? A. Yes, sir.

Q. And he recorded it as you told him?

A. I suppose so; I did not see him.

Q. How did the mate get the time on starting from Tacoma; did you give him that time?

A. No, sir, I did not.

Q. How did you get the time when you stopped your ship after you blew your second whistle?

A. Merely from the time I had left Robinsons.

Q. Then after that time it is all a matter of judgment; you did not look to see what time it was when you gave any of these whistles or when the collision occurred?

A. No, sir; I looked at my watch the next time as I went ahead from Point Robinson after the collision.

Q. But that was some moments?

A. It was a difference of 32 minutes, by my watch; I had no chance to look; had no lights unless I struck a match, and did not have time to strike a match.

Q. When you looked at your watch, it was after the collision? A. Yes, sir.

Q. How long after the collision?

A. Well, I could not say, but five or six minutes I would judge; perhaps ten.

Q. Did you make any record of the time when you looked at the watch then?

A. Only by memory, and when I put her on the beach I took out my watch and saw the time.

Q. But did you take any record of the time or examine your watch as to any matters that occurred after you began to signal to the Virginian?

A. No, sir; I had no lights; I had no time to strike a light.

Q. But what your watch registered, you do not know? A. No, sir, I do not know definitely.

Q. You do not know anything about any of the particular times as indicated by your watch with respect to the various signals that were given, or with respect to the time of the collision?

A. No, sir, only a matter of judgment.

Q. Did you at any time compare your time with the ship's time or with the mate's time? A. No, sir.

Q. With the one exception that you gave him the time of 7:28 passing Point Robinson, he would receive no time from you to record?

A. Not that I recollect, no, sir.

Q. You gave your bell full speed astern after you blew your third whistle, and about the time that you gave the four blasts?

A. I blew my third whistle, my recollection is, and rung the bell simultaneously. I was standing with one hand on the whistle rope and telegraph.

Q. Did you not wait until you should have received the response to your third whistle before ringing your bell full speed astern? A. No, sir, I don't think so.

Q. When did you make your memorandum in this pocket log? A. Which memorandum?

Q. The entries in the pocket log which you have referred to?

A. I made the memorandum of starting just as we started, and the others I made after we got to Point Robinson, from memory as I had looked at my watch.

Q. When did you record this entry which I now read from your pocket log: "After blowing one whistle three times and no response, full speed astern"?

A. That was written after we got into Robinson.

Q. Then the fact was correctly recorded there, wasn't it, that you gave each of those whistles and waited to see that there was no response to your last whistle before you ordered full speed astern?

A. That was written in a hurry; that was not made as a regular entry but a memorandum. My recollection is I gave the full speed astern at the same time I blew my third whistle, and I think I so testified yesterday.

Q. Did you make an examination right after the collision, or have one made?

A. The chief officer went forward and made one.

Q. Did you take your time then? A. No, sir.

Q. I see you have recorded that the examination was made at 8 o'clock; where did you get that time?

A. When I decided to go to Robinson and started ahead, he told me he thought—(interrupted).

Q. But you recorded, "Sounded pumps and made an examination at eight o'clock"?

A. I generally put it that way I think. That was a general memorandum for myself, covering my day's work, not put down as an actual fact. Some of those things were put down later. The fact of my backing off at 9:28 and going ahead to Tacoma.

Q. The time reported for this examination at eight o'clock, was the time reported to you by the mate and must have been ship's time?

A. No, I looked at my watch. He came back after the examination and said, "I don't think the collision bulkhead is gone, sir." Before that I had started to go to Pully Point.

Q. In estimating how many feet you travelled a minute, how did you arrive at that?

A. We were making about six knots an hour, and 6080 feet to the knot. That would be taking ten minutes to make a mile.

Q. How did you arrive at your number of knots per hour?

A. From the distance between Browns and Robinsons.

Q. Did you take your time at Browns Point?

A. Yes, sir.

Q. You have not mentioned that before; do you know what time you passed Brown's Point?

A. About 6:35, I think.

Q. How far is it from Tacoma to Robinsons?

MR. HAYDEN: I object to that as not the best evidence.

Q. About how far from Tacoma to Robinsons?

A. About eight and one-half miles.

(Witness excused.)

Whereupon an adjournment was taken until 1:15 P. M.

1:15 P. M. Thursday, February 15th, 1912.

MR. JOHN PURDY, a witness called and sworn on behalf of the Libelant, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. What is your name? A. John Purdy.

Q. How old are you? A. Forty-six.

Q. How long have you been going to sea?

A. Thirty years.

Q. What was your position on the night of the collision of with the Virginian?

A. First mate of the steamer Strathalbyn.

Q. Were you aboard her at the time she left Tacoma? A. I was.

Q. Were you here while she was loading her lumber on her, as first mate? A. Yes, sir.

Q. How long have you been first mate aboard of her? A. Since she was built.

Q. How long is that?

A. Two years and four months.

Q. Were you the officer on watch during the time the Strathalbyn left Tacoma and until the collision and afterward?

A. Yes, sir; of course leaving Tacoma we would all be on watch or on duty.

Q. What time did you leave Tacoma?

A. Shortly after six; call it six o'clock, or six-five.

Q. When you were getting under way from Tacoma, what were you doing? A. Taking anchor.

Q. You were made fast in the Bay; anchored in the Bay? A. Yes, sir.

Q. Where were you bound for?

A. Sidney, Australia.

Q. How long were you engaged in taking in anchor and making things fast after you left Tacoma, after you got under way?

A. I dare say half an hour or 45 minutes.

Q. You were on the forecandle head during that time? A. Yes.

Q. When did you go on the bridge?

A. When I completed my duties.

Q. Where was your ship at that time?

A. She would be about abreast of Brown's Point, as I ascertained later on. It being dark, I could not see.

Q. Were you on the bridge at all times up to the time of the collision? A. I was.

Q. Along with Captain Beecher, the pilot?

A. Yes, sir.

Q. Do you remember the time you passed Brown's Point? A. About 35 minutes past six o'clock.

Q. Do you remember the time you passed Robinson's Point?

A. 7:28. Captain Beecher told me that though.

Q. How fast was the Strathalbyn traveling that night? A. I would say about six.

Q. Did anything unusual occur during the time you weighed anchor in Tacoma until you got to Robinson's Point? A. No.

Q. When you rounded Robinson's Point, did you notice any lights ahead? A. Yes, sir.

Q. What did you see?

A. I saw two steamers, and a little later Captain Beecher said it was Pully Point.

Q. Did you subsequently learn what those two steamers were? A. Yes, sir.

Q. What steamers were they?

A. A passenger boat, the Flyer, and a freighter, the Virginian.

Q. Do you remember a steamer passing you in the vicinity of Robinson's Point, going in the same direction you were? A. Yes, sir.

Q. Do you know what that steamer was?

A. The Indianapolis, I believe.

Q. About where did she pass you?

A. I think a little this side of Robinsons'.

Q. When you saw the Virginian and the Flyer, in what direction did they appear when you first saw them?

A. They appeared to me as if they were not quite fully up to Pully Point. Later, they would be exposing their port side to me.

Q. Do you remember whistling to the Flyer a passing signal? A. Yes, sir.

Q. What signal did you give her?

A. One blast.

Q. Was that answered? A. Yes, sir.

Q. Do you remember whistling to the Virginian?

A. Yes.

Q. When you first whistled to the Virginian, in about what direction from you was the Flyer?

A. On our port quarter. I had quite a look around to look at her.

Q. Now in your own way state what happened with the Virginian and the Strathalbyn after you gave the first whistle to the Virginian, commencing with the first whistle?

A. After the Flyer passed, the Virginian was well on our port, showing the red light. Our pilot blew a passing signal to him and I think ported the helm a little to give him a wide belt, and he did not appear to make any answer. So I believe I made the remark, I don't think he hears you, and then he blew another whistle. Just about that time I believe the Captain came up the bridge and I was standing in front of the passage-way on the ladder, so he asked me what was the matter. At this time I was looking at the steamer that had been showing the red light. At this time the red light was disappearing and the green light was fully in sight. So I merely pointed across and said the steamer had been showing the red light and is now showing green, has evidently changed his mind and is going to cross the boat. So he at once asked if our red light was all right, and I said I suppose so, and I went down the ladder and looked at it and came back and reported that the light was all right. Then I went out to the extreme end of our port side bridge, still looking at the steamer showing his green light. The pilot was in the middle of the bridge, and he then blew another blast, and very shortly after, I don't think it could be a minute, I heard him blow four, and I heard the jangle of the telegraph go over. When I heard the telegraph go over I crossed the bridge and looked and saw it was full speed astern. I passed them and went out where I had originally been, and stayed there until the crash came. Directly after the impact, after the shock, I left the bridge and ran forward to see if the man on the lookout had got out of the road.

Q. Did you hear any signals from the vessel ahead?

A. Yes.

Q. What signals did you hear from her?

A. I heard them blow three blasts of the whistle.

Q. When?

A. At about the same time as the crash came.

Q. Did you notice whether or not at that time the vessel had appeared to be backing?

A. No, I could not say I saw that.

Q. Do you remember as a matter of fact whether Captain Beecher ordered the helm to port on the second whistle to the Virginian? A. Yes.

Q. Do you know whether he did on the third?

A. Not on the third.

Q. How was your vessel loaded. A. With lumber.

Q. Did she have deck loads? A. Yes.

Q. About how high was the deck load of lumber?

A. About the middle of the cabin windows, I think, maybe a little higher toward the side of the ship.

Q. This deck load of lumber was supported by stanchions, held into the ship by stanchions?

A. Yes, sir.

Q. In other words they came above the rail?

A. Oh, yes.

Q. Where was the red light on the Strathalbyn?

A. In the screen on the lower bridge.

Q. Did you observe any other light on the Strathalbyn except the red light? A. Oh, yes.

Q. What lights was the Strathalbyn carrying?

A. The usual regulations, green, starboard, and red on the port, and stern light.

Q. Do you know whether the masthead light was burning at the time of the collision and just before?

A. Yes, sir.

Q. How do you know?

A. I could see; at least I could see the reflection of it.

Q. Do you know whether the green light was burning at the time of the collision?

A. To the best of my knowledge it was.

Q. After Captain Beecher gave the porting signal to the Virginian, was the green light at any time thrown up to her so that it could have been seen by her?

A. No, sir.

Q. When you looked at the red light how did it appear to be burning? A. All right.

Q. Now had you been to sea with vessels that carry oil lamps? A. Yes, sir.

Q. Did you notice that there was anything about this light that time that made it any different from ordinary light that is thrown by the usual oil lamps on vessels? A. No, I did not.

Q. I believe in the Captain's testimony he spoke about your being able to testify as to the kind of oil and when it was obtained; do you not?

A. Colza is what we burned.

Q. And when was it obtained?

A. We bought a supply in July, in Barry dock, South Wales.

Q. Do you know the kind of oil it was?

A. Hamilton's Special.

Q. Hamilton's Special Colza? A. Yes, sir.

Q. Is that the regular kind of oil used in burning the side lamps? A. I think so.

Q. It is the same kind of oil that was burning in the masthead lamp, was it? A. Yes, sir.

Q. Do you know whether these lamps were burned before they were placed in their positions as you were starting away from Tacoma?

A. Yes, sir.

Q. When was that?

A. They were burning for fully half an hour in the afternoon between three and four o'clock?

Q. Where? A. In the lamp locker.

Q. Did you see them? A. No.

Q. The stanchions came up above the top of the oil lamps, did they?

A. Yes, sir, some of them.

Q. Did you observe whether or not these stanchions were inside the light so that the light would show directly ahead? A. Yes, sir.

Q. Were they?

A. To the best of my belief, they were.

Q. Did you have charge of fastening the deck load of lumber on to the vessel? A. Yes, sir.

Q. How is that done? A. In various ways.

Q. I am speaking of the way it was done in this instance?

A. After we lowered the derricks down, we used the spans for suspending the derricks; we used the spans; we suspended the derricks and made bridles of them, with a block in the bight, and set them up with the wire.

Q. So this is the hoist on your ship, and the part in the forward part of the sketch indicates the position of the deck load, this round ring being for the purpose of illustrating the foremast. Now draw on that the way these bridles were placed, commencing at the hawse?

A. The wire that suspends the derricks goes through here from the outside and shackles to the stanchion; that hole is the hawse plate; one end goes in here and the other end through the scupper hole here, and the bight or last portion is brought up over the deck to here—(indicating).

Q. Now indicate that?

A. Yes. There is a block there and another here; then there is another here; so that there are three altogether. I had two spans and this one over here was a chain through the scupper hole.

Q. And each side of the boat corresponded, did they? A. Yes, sir.

Q. Now show the main mast? A. About here.

Q. Now these things marked B are the blocks, are they?

A. Yes, sir. The windlass is here on the forecastle head.

Q. That is marked W?

A. Yes, sir. These are the bights on the forecastle head and leading lines to another block.

Q. I have marked this?

A. Yes, sir. And the wire was rove through these blocks in this way, criss-crossed.

Q. The wire was made fast to the starboard side of the ship? A. Yes, sir.

Q. And came up to the first block over the house on the starboard side? A. Yes, across the deck.

Q. To the port side?

A. Yes, and through that block.

Q. That is on the port side?

A. The block and chain.

Q. From the starboard side back to the other block and chain to the port side and crossed over to the block on your bridle, on the starboard side, and back over through the block in the bridle on the port side up to the lead block on the forecastle head, and over to the stem winch? A. Yes, that is it.

Q. What was the object of putting those bridles and blocks and lead rope in through there?

A. To bind the lumber together.

Q. So that it would carry at sea?

A. To prevent it from moving and taking loose.

Q. Did you put as much force as you could on with your steam winch?

A. As much as the wire will stand.

Q. What sized wire did you use?

A. The small marine wire off the forecastle head, 2 $\frac{3}{4}$ inch; that is the circumference.

Q. Now when you would tighten that up, what do the men do in connection with that work?

A. Everybody is lending a hand; one drives winch and others assist in running the wire through the blocks. Sometimes, when we do not have a block, we have a shackle, and a man generally stands by with a crow bar or hammer and touches it up.

Q. What is the object of that?

A. To assist in the tightening.

Q. What is the effect of that on the cargo?

A. It contracts or binds it together.

Q. It draws it together?

A. Yes, sir, holds it rigid and solid.

Q. After you get it drawn up tight together that way, what else do you do; that is what did you do on this occasion?

A. I had a couple of derrick guys around the up-rights and across the deck—that is the stanchions, that is my usual practice; I hook the tackle from one side to the other and tighten them.

Q. Did you do that on this occasion?

A. Yes, sir.

Q. Do you make these fast, that is the bridles, do you use anything else to hold the bridles in place?

A. They are shackled on to the ship.

Q. In the center of the ship between those blocks or is it just this line or wire rope?

A. It criss-crosses.

Q. That stays there all the time?

A. Yes; it remains there, and every few days as the wood dries, we tighten it up; sometimes oftener, according to the weather.

Q. What was the effect on this cargo of lumber at this time of tightening it up that way and putting the ropes around the stanchions and tightening them up?

A. It had the effect to keep the cargo in its place, and drawing it all together.

Q. It drew it more together? A. Oh, yes.

Q. Did it draw the stanchions in towards the center of the ship too?

MR. HUGHES: We object to that as leading.

MR. HAYDEN: I will withdraw that question.

A. When the weight is on the tackle, it must draw the stanchions close up against the lumber. It must have that tendency. In some cases we are required to block the stanchions off because they come in so far. We have to wedge them down, but we had not got that far in this case. I dare say a couple days afterwards we would have had to do it.

Q. Do you remember the size of the lumber on the forward deck?

A. It was all sizes, from 24 inch log to light scanty pieces.

Q. How was it on the other part of the deck?

A. I would call them ten inch deals.

Q. On the upper part of the cargo?

A. The upper portion of the cargo I think was faced off with 20 foot lengths, 2 inch boards.

Q. How wide would the boards be?

A. About 11 inches I think.

Q. How much of that did they have on the top?

A. I don't know; we had logs 18 inches square.

Q. That was down on the deck? A. Yes, sir.

Q. Did these stanchions at the time in question

when they were first put up, before you put the pressure on them, have any tumble home, or otherwise, if you noticed?

A. Oh, they always have a little hang in.

Q. You were on the bridge when you passed Robinson's Point; how long after you passed Robinson's Point would you say it was up to the time of the collision?

A. Oh, anything between 15 and 20 minutes.

Q. How far apart would you say the Virginian and the Strathalbyn were at the time you gave her your first whistle?

A. I dare say a mile and a half.

Q. What kind of a night was it?

A. It was a pretty dark night, but clear; you could see lights plain enough. The stars were out overhead, but the sky was banked down on the port side—a kind of a rain—squall making.

Q. The atmosphere was clear, was it?

A. Yes, sir.

Q. Did you notice any smoke that could have obscured the masthead light of the Strathalbyn at any time after passing Robinson's Point up to the time of the collision?

A. No, sir, not from our steamer.

Q. How high are the cross trees and the foremast on your steamer?

A. It is 41 feet to the sheave hole on the topmast.

MR. HUGHES: What is the sheave hole?

A. The heel of the topmast.

(BY MR. HAYDEN).

Q. State where the masthead light is positioned?

A. It is directly underneath the electric light.

Q. What arrangement have you for placing it in position?

A. The usual cage and two legs.

Q. When you put it up, how did you get it started up?

A. There is a fork—two iron rods, which go through these rings (indicating).

Q. Where are the rods?

A. At the cross-tree, at the top.

Q. Now you speak about putting the iron rods through these; what are these?

A. The rings on the side of the lamp.

Q. And the cage that the lamp goes in has similar rings corresponding to this? A. Yes, sir.

Q. How do you put it up?

A. They have those two prongs with the wire which runs through these rings, and the rope is bent in here and the man pulls it up. This keeps it in position. Of course you put the cage on—put this in the cage and then hoist it up. It keeps it perfectly steady; the wire is generally set up on deck.

Q. You have lead wires that go from the rings and lamps and pull it up and guide it on to the iron brackets under the electric lamp?

A. Yes, sir, that is it.

Q. Take this Exhibit C, and state whether or not—or rather, point out on that where the oil light would come?

A. I think as near as I recollect the pulley is underneath that lamp there. The two legs are about here (indicating); the two lead ropes or legs that it travels on must be straight up and down.

Q. The light would be positioned right under the electric light? A. Yes, sir.

Q. At the place where the cross is marked?

A. Yes, sir, when in position.

Q. Did you make any measurements in connection with ascertaining the position of the port light screen and height above the deck and matters of that kind?

A. You mean since this accident took place?

Q. Yes?

A. Yes; of course we took our observations off the lower bridge, so that we are pretty well acquainted with the height.

Q. What is the height of the lower bridge forward of the port light screen?

A. Fifteen feet four inches.

Q. What is the height of the light screen, if you know?

A. Eight and one-half inches, that is from the deck.

Q. What would be the height of the light?

A. I should say eight more.

Q. What is the width of the rail, the main deck rail?

A. Eleven inches and one-half, as near as I could get it; I never measured it.

Q. Was there anything inside of the main deck rail, right underneath and inside of it?

A. The water pipe on one side, on the port side.

Q. How much would that water pipe project beyond the railing?

A. It was well against the barricade; it is exposed altogether; I should say about an inch or an inch and one-half; about a quarter of the pipe exposed.

Q. What was the distance you gave as to the length of the rail; did you measure that, from the hawse forward to the forecastle?

A. I did not measure it, but I would say it was about 95 feet.

Q. In measuring the height of the light screen above the deck, how did you get at it?

A. With just an ordinary rule.

Q. I mean above the main deck?

A. I had a tape line.

Q. What kind of a tape line did you use?

A. An ordinary inch measure.

Q. Was it an ordinary cloth tape line?

A. Yes, sir.

Q. In dropping that line, did you drop it down from the inside of the screen; that is, taking the projection of the line forward along the inside of the screen; did you drop that line down? A. On the edge, yes.

Q. And how far did you say that came from the inside of the bulwarks? A. Four inches.

Q. Did you measure the distance from the inside of the screen out to the outside of where the lamp would be? A. To the outer edge of the screen?

Q. Yes.

A. It just fits the back of the lamp; I did not measure it.

Q. Did you notice whether or not the red rays of

the port light shown on the outside of any of these stanchions forward of the light?

A. I could see the reflection on both sides, the green and red one, on the after stanchions.

Q. Did you notice it ahead on any other stanchions, ahead of the after stanchions?

A. No, I don't think I saw it on any of the rest of them. I don't think so.

Q. Now what is the height if you know of the forecastle head? A. Eight feet.

Q. That is from the main deck up to the forecastle head deck it is eight feet? A. Yes, sir.

Q. You understood me to mean when I asked you about dropping the plumb line, when I said inside the bulwarks, you understood me to mean inside the bulwark rail, did you? A. Yes, sir; the main rail.

MR. HAYDEN: I now offer this for identification P, and also the chart B, which I am not quite sure that I offered.

Whereupon said documents were marked respectively Libellant's P and B.

CROSS-EXAMINATION.

(BY MR. HUGHES.)

Q. When did you make these measurements you have just been testifying to? A. The rails.

Q. The measurements or distance from the main deck, first to the bridge deck, and the height of the screens, and so forth?

A. The height of the screens is the measurement I took about a week ago.

Q. You testified to dropping a tape line from the bridge deck at the end of the screen down to the main deck? A. Yes, sir.

Q. When did you do that?

A. I could not tell the particular day.

Q. How long ago? A. About a week ago.

Q. Where was it? A. In Tacoma here.

Q. Before you went to Victoria? A. Yes, sir.

Q. Who was with you at the time; who helped you, if anyone?

A. I dare say the carpenter.

Q. Well, did he or didn't he?

A. I might have two or three helping me.

Q. But what did you do; did anybody?

A. The carpenter.

Q. The Captain was not with you at the time?

A. I do not think he was in the ship.

Q. You took an ordinary cloth tape line?

A. Yes, sir.

Q. Where did you stand when you took the measurement?

A. I would be at the light, holding the tape; that particular measurement only requires one.

Q. Then you made that measurement by yourself?

A. Yes, sir.

Q. The light was in the screen at the time?

A. Yes, sir.

Q. And you put the tape line down from the light and dropped it down? A. No.

Q. Where did you put it?

A. From the end of the screen.

Q. And did you have it weighted? A. Yes.

Q. What kind of a weight did you have on it?

A. A nut.

Q. Did you tie a nut on? A. Yes.

Q. Nobody helped you make that measurement?

A. No.

Q. Nobody was on deck below. A. No.

Q. How are you able to testify positively just what that measurement was; you were up on the bridge?

A. Yes, I had the tape in my hand.

Q. The end of the screen is a couple of feet back from the edge from which you dropped it, wasn't it?

A. I don't know just how far; it is back.

Q. It is at least a couple of feet, isn't it?

A. It may be less than that.

Q. Did you put it at the end of the screen, or go to the edge of the deck?

A. I extended to the end of the screen.

Q. Then you are giving us the whole length from the deck below to the deck above and back to the screen?

A. Oh, no.

Q. What are you trying to give; from one deck to the other?

A. The screen comes here, say, and the deck was a little further, and I extended it with a piece of lathing, and dropped the tape from the end of the lath to the deck.

Q. You didn't have anybody below there to test or straighten it out? A. No, not at that time.

Q. Nor to take any measurement of the distance you were inside the bulwark? A. No.

Q. You guessed at those things? A. No.

Q. You didn't go down and measure it? A. Yes.

Q. I thought you were up on the bridge?

A. I was for the time.

Q. Did you leave it hanging and then go down and measure?

A. No, I struck with my eye where it was and then measured it with a rule.

Q. You remembered with your eye and then went down and measured? A. Yes, sir.

Q. What measure did you get? A. Four inches.

Q. How could you tell anything about; you didn't have a tape line or plumb line hanging there; you had taken that away? A. Yes, sir.

Q. So that you had to guess at it? Are you sure you made any measurements at all?

A. Yes, sir, I am perfectly certain.

Q. You did not have the carpenter helping you at all on second thought?

A. On that particular measurement, no; I took that myself.

Q. What measurement did you have the carpenter help you on?

A. When I measured across the ship.

Q. The width of the ship? A. Yes.

Q. What other measurements did he help you to make?

A. He measured from the deck to the screen.

Q. I thought you said he was not with you then.

A. I am speaking from the lower bridged deck to the screen.

Q. That was only 8 inches; you could measure that?

A. He measured that with a hand rule and I marked it down.

Q. Did you measure the distance from the screen board to the end of the bridge? A. No, sir.

Q. You did not measure that? A. No.

Q. There is a screen here on Respondent's Exhibit 4, on the lower bridge, that corresponds to the screen that you see at A on the upper bridge? A. Yes, sir.

Q. It is not so distinctly shown on the lower bridge as it is on the upper bridge, in this photograph?

A. It is not so clear cut.

Q. But it is practically on the lower bridge just as it appears in the photograph on the upper bridge?

A. It is not so clearly cut.

Q. But on the ship it is, the lower screen is constructed just like this one on the upper bridge?

A. Yes, sir, the construction is the same.

Q. And its relative distance from the end of the bridge would be about the same?

A. Possibly not; the bridge is higher.

Q. But it also does not go out quite so far as the lower bridge deck, does it, so that there would be a little more space between the screen and the end of the bridge on the lower bridge than the upper one?

MR. HAYDEN: We object to that as immaterial.

A. I could not say as to that.

Q. You didn't measure that, did you? A. No.

Q. You don't know how many inches it is then from the screen out to the end of that lower bridge deck?

A. No, I don't know that.

Q. Do you know how much those stanchions that stand on the lower bridge deck are inside of the outer rim of the ship's rail there?

A. No, I do not know that.

Q. What is the width of the ship's rail?

A. Eleven inches and a half, I would say.

Q. Is there an open space under that rail?

A. Certainly, directly underneath, just like the edge of this table.

Q. The rail extends about 11 inches or so, and four or six inches thick? A. Oh, no.

Q. How far?

A. I would say about two and one-half.

Q. And under it, there is a space back to the ship's side? A. Yes.

Q. And this pipe you see coming out from under the saloon or cabin deck comes along and passes under the ship's rail?

A. Not wholly underneath.

Q. But as you come along it does?

A. Not entirely underneath.

Q. It would interfere with the stanchions so that they could not set right up against the rail? A. No.

Q. The stanchions do set against the ship's rail, didn't they here?

A. No; we had a chafing piece between them to keep it off the pipe.

Q. You did back nearer the saloon cabin?

A. Oh, it is entirely exposed at the saloon cabin.

Q. But passes under as you come forward?

A. About three-fourths under.

Q. On which side did you take the measurements, port or starboard?

A. On both sides.

Q. You measured the height of the screen on the starboard side? A. Yes, sir.

Q. Where did you drop the plumb line from the screen down to the main deck?

A. Right against the bulkhead.

Q. On the starboard side? A. On both sides.

Q. Was it the same on both sides?

A. As near as I remember, yes.

Q. Did you take this tape line with the nut and drop it from the edge of the lower bridge deck on the starboard side down to the main deck? A. Yes, sir.

Q. And measured the height of that? A. Yes.

Q. Did you attempt to measure the distance it crossed there, from that to the rail?

A. No, not on that side.

Q. As a matter of fact you could not make that measurement very well because this rail is three or four feet above the deck? A. Four feet.

Q. And at the point where your plumb line would strike the deck would be four feet below the rail?

A. Yes.

Q. And the rail projects out over more than half its width, doesn't it? A. Yes.

Q. Over the ship's deck. A. Yes.

Q. That is you have the thickness of the ship's structure under the rail? A. Yes, sir.

Q. Did you drop a line from the edge of the ship's rail to the deck when you attempted to measure that four inches on the deck? A. No.

Q. Then it would be nothing but a guess, would it?

A. I measured it with a foot rule.

Q. But you would have nothing to measure by?

A. I had a pipe.

Q. But you had no mark or point to measure from except your recollection from seeing it above and trying to check up that point and measure over to the point under the edge of the rail? A. No, I don't think so.

Q. You say the carpenter helped you measure the width of the deck? A. Yes, sir.

Q. What was the width of the deck at the place right in front of the saloon cabin?

A. Forty-eight feet eight inches.

Q. Was that measured to the inside of the rail or to the ship's side underneath the rail?

A. Two inches of the rail, edge to edge.

Q. Then how much space would there be under the ship's rail that you did not measure?

A. There might be six inches.

Q. On each side? A. Yes.

Q. Did you measure the width of the ship at the forecandle bulkhead?

A. I did, but I do not remember what it was.

Q. Did the carpenter help you?

A. He held the tape.

Q. Did you announce the measurements to him?

A. No, I think he announced it to me.

Q. Is he here. A. Yes.

Q. What is your best recollection of the width of the ship at the forecandle bulkhead?

A. I could not give it accurate, but as near as I can remember I think it is 43 feet 6 inches, but I would not say for certain.

Q. What is the distance from the saloon cabin to the forecastle bulkhead? A. I don't know.

Q. Did you measure that? A. No.

Q. Somewhere over 90 feet, to 100?

A. I have had 84 logs on it.

Q. So that it is at least more than 84 feet?

A. I would say 90 at least.

Q. What is the sheer of the deck; how much does it rise from the saloon cabin forward to the forecastle in that 90 feet?

A. Do you want it approximately?

Q. If that is the best you can do?

A. I don't know exactly, but as near as I know it is 15 inches.

Q. Isn't it considerably more than that; it would appear so from the looks of the ship?

A. I don't think so; it might be.

Q. What is the height of the deck on top of the forecastle cabin, above the main deck? A. Eight feet.

Q. Is the top of the forecastle cabin about level with the floor of the lower bridge?

A. A little higher; six inches higher.

Q. How much was the lumber cargo at the front end above the bridge or deck of the forecastle cabin?

A. Above the deck?

Q. I mean the cover of the forecastle cabin?

A. About six feet I think; maybe a little less; I never measured.

Q. How near did your cargo of lumber come to the door of your forecastle cabin?

A. In loading the deck cargo, we leave that space vacant.

Q. In front of the door? A. Yes.

Q. How much space did you leave vacant there?

A. You simply make steps; the first one is close and the next is further, and so on.

Q. So that you can step down into the forecastle cabin? A. Into the passage leading in.

Q. But on either side of the passage you carry the cargo up to the bulkhead?

A. No, we must have sufficient room for the doors in the forecastle cabin to open.

Q. But outside of that you carry the deck load clear up to the bulkhead?

A. We have oil lockers, paint lockers, W. C. and so forth.

Q. So that you have to leave a space of a few feet?

A. Yes, sir.

Q. Between the forecastle and deck load?

A. Sufficient for the doors to open?

Q. Was your deck load held in place in front of the forecastle cabin with stanchions also? A. No.

Q. How did you hold your deck load in place there at the time?

A. I don't quite understand; it don't require any holding there.

Q. It didn't require any? A. No.

Q. On account of the lumber being held lengthwise. A. Yes.

Q. Your stanchions were placed then along the port and starboard sides of the ship? A. Yes.

Q. What are the sizes of these stanchions?

A. Regular, from 20 foot to 16; some 20 and some 16.

Q. Sixteen to twenty feet long? A. Yes, sir.

Q. How were they made fast on the two sides of the ship?

A. That was done before you began to load, wasn't it? A. How were they made fast?

Q. How were the stanchions made fast?

A. They were steadied with a couple of ropes until the timber is layed, and that keeps them in position.

Q. They are placed there and held in place by ropes until you lay the timber at the bottom up high enough to press them against the ship's side to hold them in place? A. Yes, sir.

Q. The ship's rail? A. Yes, sir.

Q. And that ship's rail being about four feet high, that anchorage is enough to hold them? A. Oh, yes.

Q. Without making them fast any other way?

A. Yes.

Q. Then they are placed there in position before you begin to load your cargo? A. Yes.

Q. Of course they must be stood up on end?

No. 2728

UNITED STATES CIRCUIT COURT OF APPEALS

FOR THE NINTH CIRCUIT

AMERICAN-HAWAIIAN STEAMSHIP COMPANY, a
Corporation, Owner and Claimant of Steamship "Vir-
ginian,"

Appellant.

vs.

STRATHALBYN STEAMSHIP COMPANY, LTD., a Cor-
poration,

Appellee.

AMERICAN-HAWAIIAN STEAMSHIP COMPANY, a
Corporation, Owner and Claimant of Steamship "Vir-
ginian,"

Appellant.

vs.

STRATHALBYN STEAMSHIP COMPANY, LTD., a Cor-
poration, as bailee of a cargo of lumber consisting of
3,563,011 feet, and for the use and benefit of the owners
and insurers of said cargo,

Appellee.

APOSTLES ON APPEAL

(In Five Volumes)

(Vol. 2—Pages 305 to 608)

From the United States District Court for the Western Dis-
trict of Washington, Southern Division.

Testimony of JOHN PURDY:

A. Yes.

Q. And stand upright?

A. If you haven't one and cannot put it in position and work the cargo, you have a short timber, one that carries the cargo up level with the rail, and then when the cargo is on this is withdrawn and the long one put in its place.

Q. And then the cargo from the deck up will hold it? A. Yes, and you continue on.

Q. These stanchions are put in there and stood on end, upright? A. Yes.

Q. And when you get your cargo loaded you bind it fast in the way you have described? A. Yes.

Q. And these chains are made fast around these stanchions by chains that come up in loop form as you have described, on the outside of the lumber, and tied across on top? A. Yes.

Q. So as to hold both the lumber and the stanchions all in place?

A. Oh, no; the loops do not hold the stanchions.

Q. They are made fast over on this timber and across on top, but don't you make,—(interrupted).

A. We generally make the stanchions secure by this (indicating).

Q. You make them fast from the stanchions across? A. Yes.

Q. The loops go from one hawse, looping up on the outside of the cargo in a semicircular shape and over the top, you tie across from one on the other side, back and forth? A. Yes, sir.

Q. And you also tie, by rope or wire, the stanchions across from side to side? A. Yes, sir.

Q. You have said that these stanchions were from 16 to 20 feet long; what were their usual dimensions?

A. Six by nine, I think.

Q. Cut as such timbers are usually cut, square corners? A. Oh, yes.

Q. And faced with four sides, in shape of a rectangle. A. Yes, sir.

Q. And the four sides are all parallel, that is each opposite side is parallel, they are not rounded?

A. Oh, no.

Q. They are cut square across? A. Yes, sir.

Q. In other words, they are ordinary timbers which constitute a part of your cargo; six by eight in dimension and from sixteen to twenty feet in length?

A. Yes, sir.

Q. Your lights, until this night, ever since you have been on the ship, were electric lights? A. Yes, sir.

Q. You have spoken of two wire guy of lead ropes running from the crosstree down to the deck?

A. Yes, sir.

Q. Were those ropes made fast on the deck below?

A. As a general thing, but not when you have a deck cargo.

Q. And they were not in position at this time?

A. Oh, yes.

Q. They were not made fast?

A. No, they were made fast to the lumber.

Q. Did you attend to that yourself?

A. I saw a man doing it.

Q. How were they made fast to the lumber?

A. There is a space shown on the photograph where the winch is; you can crawl down there and make them fast.

Q. Do you use these same lead wires with your electric light? A. No.

Q. You did not have occasion to use them with your electric light? A. No.

Q. And generally have them in place?

A. These things as a general rule are in position at all times, but we do not use them.

Q. They are not in position when you have a deck load cargo?

A. They are in position, only you would not.

Q. But you would have no occasion for them if using electric light? A. Oh, no.

Q. Who attended to these ropes?

A. Making them fast? Q. Yes?

A. I could not say which particular man. I believe the third mate made one fast, with one of the sailors assisting.

Q. What was the man's name who made one fast?

A. Mr. Sterling.

Q. You do not know about the other?

A. No, not from seeing it.

Q. Who attended to putting up the lights that night? A. Two or three of them were on the job.

Q. Who were they? A. I could not say.

Q. Do you know who lighted the lights? A. Yes.

Q. Who was it? A. Taylor.

Q. What position did he hold? A. Quartermaster.

Q. One of the quartermasters? A. Yes, sir.

Q. Is he still with you? A. Yes, sir.

Q. Did he light and put up the masthead light, do you know?

A. He would light them and pass them out, and the Bo'son would whistle, and I didn't see what particular man lifted them.

Q. They were not put in position until just before you started?

A. They are required to be done at sunset. I have no doubt the lamps were in position at half-past five. We started at six o'clock.

Q. It would be dark here at five o'clock at that time in January?

A. But if the ship is not moving, they would not be required.

Q. But I asked you whether you were there and saw them when they were put in?

A. I blowed my whistle, and it is their duty to light the lamps and put them in position. I don't see who put them in position; I would see them cutting along the deck.

Q. How much of a list did your ship have that night? A. Six degrees.

Q. To starboard? A. To starboard, yes.

Q. Did she increase that list as you went along?

A. No, she would decrease it.

Q. Do you know whether she increased it or decreased it?

A. She increased it after the collision.

Q. I mean before the collision?

A. No; it is too short a time to notice it.

Q. Were your engines giving any trouble that night? A. Not that I am aware of.

Q. Any trouble with your coal?

A. I have nothing to do with that.

Q. What is the usual speed of your ship?

A. Depends on the wather.

Q. In weather like you had that night?

A. Eight and three-fourths knots.

Q. What was the reason you were only making six or six and one-half?

MR. HAYDEN: I object to that; it is not shown that they were making six and one-half.

A. There is no ship makes full speed the first hour.

Q. Is that the only reason that you know of?

A. That is the only reason I am aware of.

Q. Then as a matter of fact she would gradually pick up speed as her engines got into action?

A. Naturally.

Q. And the fires improved? A. Naturally.

Q. You don't know how much sheer your vessel has forward of the saloon cabin, do you?

A. I believe I said about 15 inches.

Q. You testified before the inspectors in the city of Seattle on the 23d day of January, did you not?

A. I did.

Q. At that time you were asked by Captain Turner as to the sheer of that vessel, and you answered: "Yes, there is pretty considerable." Is that corecrt?

A. I said usually, for that class of steamer.

Q. You answered, "Yes, there is pretty considerable," did you not?

A. If it is there, I would say so.

Q. Is that true; does she have considerable sheer?

A. All steamers have, of that class.

Q. Does your ship have her plans?

A. What sort of plans?

Q. The ship's plans?

A. We have the pipe and ventilation plan in the mess room.

Q. Have you a plan of the ship itself?

A. I have a deck view, front and side view elevations.

Q. Are those all you have of the ship, aboard?

A. Yes.

Q. Have you the profile plans of your ship?

A. I have what they call capacity plans; I don't know about the profile.

Q. You had the profile plans and turned them over to Mr. Hayden, did you not? A. No, I did not.

Q. Have you got them on board the ship?

A. This plan I have is called the stowage plans.

Q. Your profile plans would show the sheer of your deck from the saloon cabin bulkhead to the foc'sl bulkhead?

A. I have none; if they are drawn to a scale that would show, but I haven't it.

Q. When you took the measurements, you had no deck load forward, but did have a deck load aft?

A. When I took the measurements.

Q. The forward deck load had been removed, but the after deck load was still on the ship, wasn't it?

A. It may have been.

Q. Do you remember of meeting Mr. Moodie, who is here? A. Yes, sir.

Q. At your ship? A. Yes.

Q. Were you there when he came and asked permission to examine the ship? A. Yes.

Q. Did you tell him that you could show him the measurements of the ship's size?

A. I told him so far as I was concerned he could measure anywhere.

Q. Did you tell him you could show him the plans and he could take the measurements from them?

A. I said perhaps I had the plans or might have, and I went to get it, and I remember Mr. Hayden was on the ship and I told him the man's business and he said to refuse it, and I believe I had this plan in my hand.

Q. Did you look and find you did not have it?

A. No, I think I had it.

Q. You told him he could get the measurements from the ship's plans, that you were willing?

A. I don't know that I called them the ship's plans.

Q. Then the plans you had would be of the ship's size?

A. I think I said I could show him a plan that would do.

Q. Give him the measuremnts?

A. He could make the measurements.

Q. Mr. Hayden told you not to?

A. Mr. Hayden spoke to the gentleman himself.

Q. And refused to permit him to make the measurements? A. Yes.

Q. Or make an examination? A. Yes.

Q. The deck load followed the sheer of the vessel, didn't it?

A. It is laid on the deck, it could not avoid it.

Q. Did you make any measuremnts of the height of the deck load?

A. Not to measure it particularly.

Q. So that you do not know the height of the deck load? A. Not exactly.

Q. When you testified before the inspector that the deck load was 14 feet 6 inches high, that was a mere estimate, was it?

A. I said so at that time; of course I could give a very good judgment.

Q. Did any of your officers or crew report to you that your starboard light was out and that it was relit, right after the collision? A. Oh, no.

Q. When you first saw the Virginian, how did she bear from the bow of your ship?

A. I would say a little from her head, from about a quarter to a half a point on the starboard bow.

Q. In your testimony before the inspectors the following question was propounded to you and you answered as follows: "What was the bearing of this ship with reference to your head when you first saw the Virginian?" and you answered, "Oh, I would say perhaps a half a point or three-quarters on the starboard"; is that right, at the time?

A. Oh, yes; what do I say just now?

Q. You said a quarter to a half?

A. That would not be diferent.

Q. Which way did the Flyer bear from your bow when you first saw her?

A. A quarter of a point to starboard of the Virginian; she was overtaking the Virginian.

Q. When you first gave the whistle to the Flyer, how did she bear?

A. When we whistled to the Flyer, I think she would be about end on to us, or nearly so.

Q. Was the Flyer on your port bow?

A. Slightly; that is why we whistled.

Q. When you first whistled to the Virginian, how did she bear?

A. She was also on the port bow; I would say about a point or point and a half.

Q. Did you see Pully Point light as you approached? A. Yes.

Q. Which way was Pully Point light from you when you saw the Virginian and was giving her these passing whistles?

A. We were whistling to the Virginian; I don't suppose I took any particular notice of Pully Point at that time. When I first saw Pully Point was when I saw the two steamers; at first I could only see their masthead light.

Q. As you watched the Virginian while giving these three whistles, and getting no answer, you saw Pully Point light? A. I did not say so.

Q. Did you not?

A. At that time, if we had been porting, it was bound to be on our port bow.

Q. Did you see Pully Point light? A. No.

Q. When the Virginian was approaching you at the time you first signaled her, up until the collision occurred, did you notice Pully Point light?

A. No. I noticed that light before the steamers rounded the point.

Q. There wasn't anything to interfere with your seeing Pully Point light afterward?

MR. HAYDEN: That is objected to as not being proper cross-examination.

A. I don't suppose I was looking for it.

Q. You have no recollection of seeing Pully Point light? A. No, sir.

Q. Do you remember seeing it just after the collision? A. No.

Q. So that you have no idea of how Pully Point light bore from your ship at the time you first signaled until after the collision?

A. No, not the bearing of Pully Point.

Q. Was this boat lower aft than in front?

A. The Strathalbyn?

Q. Yes? A. You mean loaded by the stern.

Q. Yes. A. Yes.

Q. How much?

A. Well as near as I mind, a foot.

REDIRECT EXAMINATION.

(BY MR. HAYDEN).

Q. When Mr. Moodie inquired is he could see the measurements, do you remember my saying to him that I did not want strangers to be taking measurements; that I could not tell whether they were accurate or not, and therefore confusing this record?

A. I do.

Q. And that is the reason I refused to let him, and told him that was the reason?

A. Yes, sir, and he quite agreed at the time.

Q. I understood Mr. Hughes to ask you if this bridge deck was half a foot lower than the fore-castle head deck; did you mean the cabin deck?

A. The saloon deck he asked, and I said there was a difference of six inches.

(BY MR. HUGHES).

Q. Did you ever take a measurement or level to ascertain the difference between the height of the fore-castle deck and the saloon deck?

MR. HAYDEN: I object as incompetent, irrelevant and immaterial.

A. I have measured; it is six inches.

Q. How did you measure? A. By tape line.

Q. You measured from the main deck to the fore-castle deck, straight up? A. Yes, sir.

Q. And you know the measurements back from the main deck to the saloon deck? A. Yes.

Q. The steps go up either place? A. Yes, sir.

Q. That does not take any account of the sheer of the ship at all? A. Oh, no.

Q. Did you measure the width of the lower bridge when making those measurements? A. Yes.

Q. What is the width of the lower bridge?

A. I could not say unless I included from lamp to lamp; I don't know the measurements of the lower bridge.

Q. Did you make the measurements of the lower bridge on this day? A. No.

Q. Did the carpenter help you make measurements of the lower bridge? A. No.

Q. Did you measure from lamp to lamp?

A. Yes, sir.

Q. Across the bridge? A. Yes, sir.

Q. From lamp to lamp? A. Yes, sir.

Q. What was the width?

A. Forty-seven feet seven inches.

Q. Measuring from the top of the lamp?

A. The center of the chimney.

Q. From the center of the port chimney to the center of the starboard chimney? A. Yes, sir.

Q. What do you say is the measurement from the inside of the port rail in front of the saloon cabin to the inside of the starboard rail?

A. Forty-eight feet eight inches.

Q. Did you measure the width of the deck itself?

A. I don't quite understand.

Q. You have already said the rails come in a little?

A. I measured from edge to edge.

Q. From the edge of one rail to the other?

A. The two inside edges.

Q. That would be four feet above the deck?

A. Yes, sir.

Q. Did you hold your tape line straight across?

A. Yes, sir.

Q. You did not put it down on the floor of the deck and measure under the rail? A. No, sir.

Q. Did you have a tape line that was 48 feet or more long, or did you have to double up? A. No.

Q. The tape line was longer than the width of the ship between the rails? A. Yes, sir.

Q. Did anybody hold it in the middle to keep it from sagging? A. I pulled it tight.

(BY MR. HAYDEN).

Q. Was that a cloth tape line you were using?

A. Yes, sir.

(Witness excused.)

MR. ANDRE CAMERON, a witness called and sworn in behalf of the libelant, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. Your name in full? A. Andre Cameron.

Q. How old are you? A. Twenty-seven, sir.

Q. How long have you been going to sea?

A. Eight years.

Q. How long have you been with the Strathalbyn?

A. Six months.

Q. You were the lookout on the Strathalbyn on the night of the collision? A. Yes.

Q. Do you know where Robinson's Point is now, by the red light that was on it? A. Yes, sir.

Q. When you rounded Robinson's Point, did you see any vessels ahead of you? A. Yes, sir.

Q. And those vessels turned out to be the Flyer and the Virginian? A. Yes, sir.

Q. Do you remember the Strathalbyn blowing to the Flyer? A. Yes, sir.

Q. What whistle did he give her? A. One blast.

Q. Do you remember whether or not the Flyer answered? A. Yes, sir.

Q. With what whistle? A. One blast.

Q. What did your vessel do after that so far as signaling is concerning, if anything?

A. After he blew one blast, then shortly after that he blew another for the Virginian. When I first saw the Virginian I saw her red light. Of course I saw her first when I reported to the officer in charge, it was the two masthead lights, and afterwards I saw her red light; then we blew one blast for them and there was no answer, and then blew a second blast and there was no answer on that either. Then we blew the third blast and yet no answer, and then four blasts went. They

answered that and at the sound of his last blast the crash came.

Q. Describe how the lights on the Virginian appeared?

A. I saw first the red light, and then afterward he closed the red light and put the green on to us; that was on the second whistle, where he closed the red light entirely on us and put on the green.

Q. He did not answer you at all until he blew the four blasts? A. The four blasts.

Q. You were on the forecastle head? A. Yes, sir.

Q. Did you observe the lights of the Strathalbyn?

A. Yes, sir; I reported every half hour.

Q. Were you on the look-out from the time you left Tacoma? A. Yes, sir.

Q. Do you remember how many times you reported the lights?

A. I reported the lights three times, half past six and seven and half past seven.

Q. What lights were burning at half-past seven?

A. There was a masthead light, and the two side lights.

Q. Were those lights burning all the time from the time you left Tacoma? A. Yes, sir.

Q. Did you look at these lights shortly before the collision?

A. Yes, sir, I reported the lights I should say about ten minutes after they struck three bells; that was half-past seven; then I reported them, they were bright.

Q. How did you see the red and green lights?

A. I walked up and down the forecastle head.

Q. From what position did you see them to report them?

A. Coming to the break of the forecastle head, and then went onto the other side of the forecastle head.

Q. What did you do when you got to the break?

A. Just bent over and saw the lights plainly.

Q. Leaned outside?

A. Leaned over the sail, and I reported them.

Q. Could you see the lights from that position?

A. Yes, sir.

Q. Did you notice about the angle that the Vir-

ginian came in contact with you at the time of contact, where she hit you?

A. She hit us on the port bow, six feet on the port hawse pipe; that is where she took us.

Q. What did you do when you saw they were coming together?

A. I shouted to the fireman's ventilator, "Look out below, there is a steamer coming into us!"

Q. When did you shout that?

A. It was not very long—about half a minute; I could not tell that time.

Q. How did the Virginian appear to be coming towards you when you came into collision?

A. He cut into us with his green light showing.

Q. Can you take these two pencils and show about the way the Virginian struck you? Take the red one for the Virginian and the yellow for the Strathalbyn?

A. It was this way (indicating).

Q. It struck you on which side?

A. The port side, with their starboard side.

Q. You ave these pens,—which is the Strathalbyn?

MR. HUGHES: He can set them.

Q. You say the Virginian struck you on the port side? A. Yes, sir.

Q. Now which one of those pencils is the Strathalbyn and which is the Virginian?

A. I would say we were coming this way, and the Virginian coming this way (indicating).

Q. Wouldn't that be striking you on the starboard?

A. I take this for the port side. Oh—it would be this way.

Q. Well, now fix them?

A. It would be this way. She came in this way to us and hit us here (indicating).

Q. She came into you like that? A. Yes, sir.

Q. How far did the bow of the Virginian appear to cross your bow? A. I could not tell that.

Q. That is the direction they appeared to come into you? A. Yes.

Q. Now place them on this paper as you think they came together? A. About this way.

Q. You think that is about it? A. Yes, sir.

Q. Now let us mark those. This line marked S would be the Strathalbyn, and this line marked V would be the Virginian? A. Yes, sir.

MR. HAYDEN: I offer this sketch as identification "Q."

Whereupon said sketch was marked Libelants "Q."

CROSS-EXAMINATION.

(BY MR. HUGHES.)

Q. When you first placed those pencils, you put the Virginian so that she was approaching you much more nearly head on, and changed it afterward when you were interrupted, about two points more on your port bow, didn't you?

A. Well I would judge what I put it.

Q. Why did you change from the time you first located them on the table before you put them on the paper; why did you make such a radical change?

A. I did not make so much of a radical change.

Q. You made a change of about two points?

A. Not on this piece.

Q. From the time you first laid them on the table up to the time they were put on the paper, you put the Virginian about two points more on the starboard bow?

A. The first time I laid them on the table, I put the ships wrong altogether; I was holding left handed.

Q. You had us coming into your starboard bow?

A. Yes, sir.

Q. And then the next time you had them coming more nearly head on, and the last time when you fixed the diagram on the paper, you got the Strathalbyn about two points more on your starboard than the second time you laid them on the table?

A. Yes, that is as I can judge they were.

Q. About how much do you think the Virginian was on your port bow, just before the collision, at the time you gave the danger signal?

A. I could not tell exactly; we hadn't any compass, but I would judge about two points or two and one-half.

Q. And you gave the four blasts and the Virginian immediately answered those? A. Yes, sir.

Q. And almost immediately after she gave her answer, the two ships came together? A. Yes, sir.

Q. How long before the danger signal did you call to the men in the fore-castle?

A. From where I was standing—I was on the bow—at the time we blew our danger signal. From the bow I came to the ventilator and sang out on the port side ventilator, "Look out below!"

Q. Right immediately after the danger signal?

A. After our danger signal, he was working his too.

Q. Some of the men did not have time to get out at all? A. No, sir.

Q. Before the collision? A. No.

Q. Did any of them have time to get out before the collision?

A. I don't know; they were talking loudly; I don't know whether they had any time. I know I had time to get over where I was.

Q. How far back from the bow did you get by the time of the collision?

A. From where I was standing, right on the bow by the forward ventilator, I came as far as between the firemen's fore-castle and their bogie funnel; that is where I got.

Q. How far back from the bow did you go?

A. About, I could not judge as to the number of feet.

Q. Approximately; was it 20 or 30?

A. No, sir, not thirty; it might have been 15 or 20.

Q. That is as far as you had time to go before the collision? A. Yes, sir.

Q. And you ran back immediately after these alarm signals? A. Yes, sir.

Q. When you reported the *Flyer* did you make any report at that time of the *Virginian*?

A. I reported the *Flyer* first; shortly after that I reported the *Virginian*.

Q. What report did you make for the *Flyer*?

A. Right on the port bow.

Q. How much was she on your port bow?

A. The *Flyer*—I could not judge.

Q. Two or three points? A. About that.

Q. She seemed some little distance ahead of the other boat? A. Yes, sir.

Q. About how much?

A. About a half or three-quarters of a mile; I could not tell exactly.

Q. Did you report the Virginian before or after your boat gave one blast to the Flyer?

A. Long before that.

Q. You reported her before your ship gave the passing signal to the Flyer?

A. I reported the Flyer, and about two or three minutes after that I reported the Virginian. And then we blew for the Flyer and he passed by, and then we blew for the Virginian.

Q. How many times did the Strathalbyn blow for the Virginian? A. Three times.

Q. How long before the danger signal was given did the last blast come?

A. I would judge about a minute between.

Q. Could you tell whether you were going to starboard—your bow going to starboard?

A. Our bow was swinging in.

Q. That would be to starboard?

A. Yes, to starboard.

Q. How long had your boat been going to starboard? A. I could not tell how long.

Q. Did it commence to go to starboard before the last signal blast was given?

A. I knew we were going to starboard, but I couldn't tell how long or anything of that kind. You see if the ship is swinging it is impossible by standing at the bow—you can tell but not by standing in the bow.

Q. You can tell whether you were going ahead through the water, couldn't you? A. Yes.

Q. You were still going ahead all the time?

A. We were going ahead, but I don't think we moved much at that time.

Q. Did you have anything to do with putting out the lights?

A. I put the masthead light out, and the quarter-master put out the sidelights.

Q. Who lighted the masthead light for you?

A. One of the quartermasters; Harry Taylor is his name.

Q. Where was that light kept?

A. There is a locker for the lights.

Q. Where is that? A. Forward.

Q. Where with reference to the forecastle cabin?

A. The forecastle cabin—all the lamp lockers and paint lockers are on the aft part of the forecastle cabin.

Q. Which way do they open?

A. Outside on the deck.

Q. Was there space left?

A. Yes, sir; between the firemen's forecastle and the sailor's forecastle, and the doors of the paint locker and lamp locker open on the deck.

Q. Did you have anything to do with taking care of the lamps? A. No, sir.

Q. Did you see Andre take out these lamps and put the wicks in them, or the oil in them?

A. No, sir, I did not notice.

Q. Had you ever seen them used before on that boat? A. No, sir.

Q. Had you ever seen them before that night?

A. I have seen them in the locker, hanging up in their places.

Q. Are you sure about that? A. Yes, sir.

Q. Did you help to bring them here? A. Yes, sir.

Q. What time did you put the masthead light up?

A. The mate on the forecastle head and the carpenter was there, and I was called to put up the lights, and the quartermaster passed me the masthead light and I went away with it, and I don't know who took the others?

Q. Did you put it in the cage? A. Not in the cage.

Q. Did you send the rope onto the top of it?

A. No,—yes, I bent the rope, but there are two wires that come down from underneath the cage. There is a fork up there; and two wires coming down to the deck. Those two wires are rove in here (indicating), and the lamp passed up.

Q. How do you rove those wires in the rings?

A. We rove them in and fastened them down on the lumber.

Q. Had they been made fast on the lumber before?

A. No, sir, they were adrift.

Q. As a matter of fact you did not make them fast on the lumber, did you?

A. I made them fast on the lumber.

Q. You had not anything to make them fast with, had you?

A. Yes, on the edges of the lumber that come out between the winches.

Q. Are you sure you tied them fast? A. Yes, sir.

Q. How did you tie them?

A. There was a piece of lashing.

Q. You attempted to lash them around the edges of pieces of lumber? A. Yes, sir.

Q. How did you hoist it up?

A. Pulled it up. On top there are two pieces of iron, about four feet or three feet long, under the plate of the masthead light, and then the rings were right up, so that the lamp is steady.

Q. But that never had been used before? A. No.

Q. Those rods had not been used before?

A. Not since I was aboard.

Q. Where was the cage of these lamps?

A. I don't know where it was.

Q. How did you say you pulled them up?

A. By making fast the line on it.

Q. And then hoisted them up? A. Yes, sir.

Q. How do you know you got them clear up in the darkness?

A. Because I went up there in the rigging to see.

Q. You are sure you went up the rigging?

A. Yes, sir, the bo'son was there.

Q. How high? A. Underneath the cross tree.

Q. They were right under the cross tree?

A. Yes, sir.

Q. How far were they under the cross tree?

A. Right up against,—there is a plate that comes there, where the other line is on, and two forks standing there, and the light was right under there.

Q. How much was the light hung below the cross tree? A. I could not tell; about a foot.

Q. That is the top of the lamp would hang a foot below the cross tree? A. No. It goes right up.

Q. The body of the lamp swung under the cross-tree?

A. It could not swing after it got into the fork.

Q. Was it hanging underneath the cross-tree?

A. Yes, sir, because the forks is under the cross tree.

Q. Have you ever been up and examined those forks before?

A. No, sir. I had been up there painting them once, on the passage out.

Q. Did you examine afterward to see that the guy ropes were still tied fast to the sticks of lumber that you say you tied them to? A. Yes, they were fast.

Q. Did you examine them afterwards?

A. They were never put down until we came back to Tacoma.

Q. Did you help to take them down?

A. No. I did not take any lights in at all.

Q. You had nothing to do with taking in the lights?

A. Yes; I had to take the lights.

Q. I mean that night?

A. No, I did not take in any.

Q. Did you have anything to do with fixing up the lights after the collision occurred? A. No.

Q. You did not help to light up the starboard lamp that had gone out. A. No, sir.

Q. Do you know when the starboard light went out? A. No, sir.

Q. Was there any rope that came down from the mast forward, in front of this light?

A. There is a stay; the topmast stay; and the main stay is underneath.

Q. Did you notice how much that lamp has smoked that night? A. No.

MR. HAYDEN: I object as not a proper hypothetical question.

Q. When you were standing on the forecastle head, was the deckload higher than your head?

A. I think it was.

Q. You know it was don't you?

A. Yes, standing on the break, but not standing by the windlass. I could open the cabin ports by standing on the windlass; I mean on the poop of the windlass.

Q. Could you see the lights while you were standing on the poop of the windlass? A. Yes.

Q. Could you see the sidelights when standing on the poop of the windlass?

A. Yes, sir, I could see them showing inside the first stanchion, by standing on the poop of the windlass.

Q. Showing inside the first stanchion? A. Yes, sir.

Q. The poop of the windlass is in the center?

A. No, the barrel of the windlass is the poop.

Q. Where is that?

A. That is on the side of the bow.

Q. How much is it to one side of the bow?

A. I could not judge.

Q. What is the outside width of the drums, from one to the other.

A. I could not tell; I never measured.

Q. They are located right amidships, abaft the stem; six or eight feet aren't they?

A. From the barrel of the windlass to the side of the ship?

Q. No; the drums of the windlass are located abaft of the stem, amidships, six or eight feet?

A. Yes, about that.

Q. And from that point you could see the side lights? A. Yes, sir.

Q. Both of them? A. Yes, sir.

Q. Looking back inside the stanchions?

A. Yes, sir.

Q. Did you notice them there that evening repeatedly, from that point? A. Yes, sir.

Q. You were there when the ship was being loaded, were you? A. Yes, sir.

Q. How many stanchions were there on each side of the forward deck cargo?

A. I could not tell; I did not count.

Q. There were several?

A. Yes, there were several.

Q. Well about ten feet apart, were they?

A. About ten or twelve feet, more or less; I could not tell exactly.

Q. About how high did they stand above the deck cargo?

A. I know they stood over six feet, some of them.

Q. Higher than your head? A. Some of them.

Q. And how big were they?

A. Six by ten, or six by eight; I could not tell.

Q. They were heavy timbers?

A. Heavy timbers, yes, sir.

Q. Did they stand vertically?

A. I don't know how they stand.

Q. You testified before the inspectors at Seattle, did you? A. Yes, sir.

Q. And Captain Whitney asked you this question: "Q. Did your deck load stanchions stand vertical or did they tumble home a little," and you answered, "No, they were straight." Didn't you?

A. Yes, I might have said that at that time.

Q. Now, that was correct wasn't it?

A. Well I don't know exactly how they were; I said they stood straight, to my vision.

Q. I wish you would look at this photograph, Libellant's Exhibit C, and tell me what these railings or rods are above the bow of the ship, which I mark with an X, representing those different railings?

A. They are the forecastle awnings drawn back after the crash; the spars.

Q. The awnings extend back over the forecastle head and back over the deck?

A. They have been thrown back.

Q. But they naturally in position extended back over the forecastle head? A. Over the deck cargo.

Q. And this deck cargo came up to the awnings, didn't they? A. No, not on the aft part.

Q. But they came right up under the awnings?

A. No, sir.

Q. It came up very close?

A. No, you can stand on the rail and reach like this with the hand, and that is over six feet again, be-

cause when we clean the spars we hang one hand up, with the other hand washing.

Q. Standing on the ship's rail? A. Yes, sir.

Q. That would be eight or nine feet?

A. On the middle, yes, sir.

Q. Above the forecastle cabin? A. Yes, sir.

Q. Did these awnings extend back as far as the cargo? A. They were thrown,—(interrupted)

Q. I mean before the collision? A. Oh, no.

Q. They were in front of the cargo?

A. In front of the cargo.

Q. Over the cabin? A. Over the cabin, yes.

Q. Did you report Pully Point light?

A. Which is Pully Point?

Q. The light that was ahead of you before this collision occurred? A. I don't remember.

Q. You don't remember seeing a light there?

A. Yes, I saw a white light.

Q. Did you report that?

A. I don't remember reporting it at that time, because I was looking after the Virginian coming down to us, and the Flyer passing.

Q. After you gave your passing signals to the Virginian, did you see this white light on the land?

A. Yes, sir.

Q. How did that bear with reference to the Virginian; was it right behind it?

A. I could not tell; it was a little on the side.

Q. Which side; port or starboard as you looked ahead—that is before the collision when giving the passing signal?

A. It was rather on his port quarter, something like that.

Q. Did you see it up to the time of the collision or just before? A. Yes, sir, before the collision.

Q. And whenever you saw it, it was off the port quarter of the Virginian?

A. Well I don't know where it was, but I know I saw a shore light, but I don't know whether it was one course, or inside.

Q. How did it bear from your vessel just before the collision?

A. Whether a bit on the starboard bow, or right ahead, I could not judge exactly.

Q. It was either right ahead or on your starboard bow, just before the collision, was it? A. Yes, sir.

MR. HAYDEN: Q. I understand you to say that from the bow of the ship looking ahead, you could not tell the course she was making or just how she was pointing? A. Not by looking forward.

(BY MR. HUGHES)

Q. Did the shock of the collision throw you over at all?

A. No, sir, but I was standing against the ventilator; I only got the shock, that is all. It did not throw me.

Q. Which way did it throw you? A. I got a shock over.

Q. Which way?

A. I was against the ventilator; it shoved me.

Q. In which direction did it shove you?

A. Back, or aft.

(Witness excused.)

MR. ROBERT G. RUSSELL, a witness called and sworn in behalf of the libelant, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN)

Q. What is your full name?

A. Robert George Russell.

Q. How old are you? A. Twenty-one, sir.

Q. How long have you been going to sea?

A. About six years altogether.

Q. How long have you been on the Strathalbyn?

A. Six and one-half months.

Q. What were you doing on board of her on the night of the collision with the Virginian?

A. I was at the wheel, sir.

Q. Located where? A. On the flying bridge.

Q. Where Mr. Beecher and Mr. Purdy were standing? A. Yes, sir.

Q. You were on board of her were you from the time she left Tacoma until she had the collision?

A. Yes, sir.

Q. Standing at the wheel all the time. A. Yes, sir.

Q. Nothing unusual occurred, I understand, until after you got beyond Robinson's Point?

A. Not that I saw, sir.

Q. You understand Robinson's Point to be the red light?

A. I didn't know it then, but I understood it afterward.

Q. When did you notice the Flyer and the Virginian approaching you after you got beyond Robinson's Point, or before?

A. When we were on the other side of Robinson's Point.

Q. Do you remember any signals being given to the Flyer? A. Yes, sir.

Q. What signals were given? A. One blast.

Q. Was that answered? A. Yes, sir.

Q. Were any signals given to the Virginian thereafter? A. Yes, sir.

Q. How many? A. Three all together.

Q. Describe them now, please?

A. The first one we gave, Captain Beecher blew the whistle and gave the order to port the helm. I ported the helm two points and steadied her up again on his orders. The next blast, he gave the order to port again; I ported another point and a half; she did not steady up but kept going gradually under that. He stopped her then too, the second blast. Then the third blast; there was no answer.

Q. He didn't get answer to any of them?

A. No, sir.

Q. Did he give another blast?

A. Yes, he gave his danger signal.

Q. Then what happened?

A. He reversed his engines, and the Virginian answered the danger signal, three blasts. That was the only whistles I heard from them.

Q. The Virginian's three blasts? A. Yes, sir.

Q. Did you notice the Virginian's lights?

A. Yes, sir.

Q. How did they appear to be to you when the first blast was given to the Virginian?

A. She was showing her green lights partly, both her side lights.

Q. Both the red and green light at that time?

A. Yes, sir.

Q. When the second blast was given to the Virginian, do you know how her lights appeared then?

A. She was showing her green lights, sir.

Q. And when you gave the third blast how did the lights appear? A. The same; the green light.

Q. Did you observe or could you tell and did you observe whether or not the masthead light was burning?

A. Yes, sir, I could see the glare on the cross-trees.

Q. Did it continue to burn until after the collision?

A. Yes, sir; it was burning all the time I was aboard until we came back to Tacoma.

CROSS EXAMINATION.

(BY MR. HUGHES)

Q. How long have you been quartermaster on the Strathalbyn? A. Since I joined her in England.

Q. Your wheel was on the flying bridge?

A. Yes, sir.

Q. There is no covering there for it? A. No, sir.

Q. You were standing out in the open, steering?

A. Yes, sir.

Q. You were paying attention to your wheel and watching what you were doing? A. Certainly I was.

Q. You did not pay any especial attention to anything else?

A. No, sir, I did not; I watched my steering; that is what I was up there for, to attend to my duty.

Q. After Captain Beecher gave the first blast or signal for passing, did he give you an order to port?

A. No, sir, not for the Flyer.

Q. Was the Flyer well off on your port bow?

A. Yes, sir.

Q. So that it was not necessary at all to port?

A. No, sir.

Q. How long after that was it before he blew a blast for the Virginian?

A. A matter of a minute, or a minute and a half or more.

Q. Was the Virginian dead ahead of you or nearly so at the time? A. Pretty near.

Q. Wasn't it a little bit on your starboard bow?

A. Not much, sir.

Q. How long after he gave that blast did he order you to port your helm? A. When he gave the blast.

Q. Afterwards? A. Right afterwards.

Q. Did he tell you how much to port it?

A. He gave order to port, and then when he thought it was far enough he told me to steady up.

Q. How much did you port? A. Two points.

Q. Before he told you to steady? A. Yes, sir.

Q. And then you steadied your helm on that course?

A. Yes, sir.

Q. So that from that time until the next order you got you were proceeding on a course two points to the starboard of what your course had been before?

A. Certainly.

Q. Now how long was it before he gave the second whistle? A. About a minute.

Q. Then you had been running on the course two points more to starboard for about a minute before the second whistle. A. Yes, sir.

Q. There was not any answer to that whistle either? A. No, sir.

Q. And the Virginian was then on your port bow a little? A. Yes, sir.

Q. About how much at that time was it to port?

A. I did not take bearings.

Q. Would you judge two points to starboard?

A. Yes, sir.

Q. Was she as much as two points on your port bow? A. She might have been.

Q. You did not pay much attention to her did you?

A. No.

Q. After that second blast did the captain give you any further order about the wheel?

A. Yes, sir; ported again.

Q. Did he give you that order immediately, or did he wait to see if an answer would be given?

A. No, he just gave it directly after.

Q. And you ported again did you? A. Yes, sir.

Q. How much did you port it that time?

A. About a point and a half.

Q. Did you steady it?

A. Not exactly; she remained on the port helm that time.

Q. She kept swinging more and more?

A. Yes, sir.

Q. How long was it after that before the collision, after that second whistle? Was it two or three minutes? A. Not that long; about two minutes maybe.

Q. And all that time she was swinging on the port helm? A. Yes, but steady, not fast.

Q. She would not be on a swing unless you steadied her?

A. You can hardly steady a ship when there is no steering way. She was not going ahead then, not much anyway.

Q. That was the time he stopped her, wasn't it?

A. He stopped her on the second blast.

Q. Then he blew another blast? A. Yes.

Q. You did not get any answer to that? A. No.

Q. All the time you had her on the port helm?

A. Yes, sir.

Q. You had not steadied her again?

A. I do not understand.

Q. You kept her held over on the port helm?

A. I do not understand what you are talking of.

Q. Do you know whether you kept the helm over?

A. I told you on the second blast he gave me the order to port.

A. And you kept it over?

A. I did not keep it over. I did not have the wheel over at all.

Q. But you kept it where you put it? A. Yes, sir.

Q. You did not steady it off?

A. I steadied it up a little.

Q. He did not order you to steady her up?

A. No, but I just kept her gradually under port helm, that is what he said, to steady her.

Q. After the third blast it ran along for a minute, and then he gave the danger signal?

A. About a minute and a half or two minutes.

Q. Then he reversed the engine? A. Yes, sir.

Q. How soon after that was it that the collision came; was it very quickly?

A. Oh, maybe half a minute or a minute.

Q. You did not see the lights before the collision, did you? A. No, sir.

Q. Did anybody tell you about the starboard light being out, after the collision; did anybody tell you after the collision occurred that the starboard light was out?

A. No, I don't think they would come up on the bridge and tell me that.

Q. You remained up on the bridge?

A. For nearly three-quarters of an hour after the collision.

Q. Then you went down? A. Yes, sir.

Q. Did any of the men tell you that the starboard light was out and that it was lighted again?

A. No, sir, I never heard anything about it.

Q. Now the forward deck load, looking at this photograph, Libellant's Identification C, came right up to the molding on the lower bridge, didn't it?

A. No, it only came to that brass ports here.

Q. That is right at the deck, lower bridge?

A. It does not look to me like that; there should be a space there.

Q. What do you mean?

A. The brass ports in front of the saloon.

Q. You testified before the inspectors in Seattle, as follows, did you not: "Was the deck load below the lower bridge; the top deck load; was it below the lower bridge? A. Just by the lower bridge, sir; little below the lower bridge." Was that right when you testified to that?

A. Yes, sir, and I say the same now.

Q. It came right up almost to the molding of the lower bridge?

A. No, sir, not exactly, not to the molding.

Q. Do you remember this man Mr. Moodie, and talking with him after the collision, a day or so?

A. Yes, sir, I saw him I think about a week after.

Q. In Tacoma, at the boat, the Strathalbyn?

A. Yes, sir.

Q. Didn't you tell him that the deck load came up to the molding at the foot of the lower bridge; that is the deck of the lower bridge?

A. I do not remember saying such a thing to him.

Q. Will you testify that you did not?

A. I don't remember and I could not say anything else.

Q. How high is that railing in front of the lower bridge?

A. I never measured it, so that I could not tell.

Q. Have you any idea? A. No, sir.

Q. It would come up to about your waist?

A. I never tried it.

Q. You have walked by it a hundred times?

A. I might, but I didn't take notice.

Q. And you haven't any idea of the height of it?

A. No.

Q. And you haven't any idea, any more than you have of the height of the deck-load?

A. No, sir, I had nothing to do with the deck load.

Q. Did you have anything to do with these lights that night? A. No, sir.

Q. Did you help to take care of them after the collision?

A. When we came back to Tacoma, I took in the side lights.

Q. Did you clean them? A. No, I did not.

Q. Who did clean them?

A. I don't know; it was not me.

Q. You don't know who cleaned them?

A. No, I don't think I was going to stop on deck at two o'clock in the morning to clean lamps; I don't think I would, having been up from five o'clock in the morning.

Q. Did you notice how badly they were smoked?

A. I didn't see any smoke on them.

Q. Did you notice particularly? A. No.

Q. Did you put out the lights? A. Yes.

Q. Did you take them out of the screens?

A. Yes, sir.

Q. You didn't have anything to do with taking down the masthead light? A. No, sir, I did not.

Q. These ropes here are the awnings on the fore-castle head?

A. I think they are the awning stays.

Q. These that run back here are the strong backs?

A. Yes, sir.

Q. You told Mr. Moodie also that the deck load came up to these stays, didn't you?

A. I don't remember telling him anything about it.

Q. But they did come up to that, as a matter of fact?

A. I never saw them up there. I have never been on the fore-castle head since the cargo was on. I was on the after watch.

Q. You had never been up there at all?

A. Not when the deckload was on.

Q. You never were up after the deckload was on at all? A. Not at all.

Q. And you didn't tell Mr. Moodie that the deckload went up to the strong backs of the awning and the fore-castle?

A. No, sir; I don't remember telling him at all; the only thing I saw of him he was coming on board one day, and he was going to take photographs, that is all.

Q. There were a couple of men with him at that time? A. I remember one other; that is all.

Q. You had a conversation with them, did you?

A. No, not myself that I remember. The other boys were around.

Q. You remember Mr. Moodie was taking photographs there that day? A. Yes, sir.

Q. You showed him around there?

A. I never showed him around.

Q. You went with him? A. I never did.

Q. You talked with him and told him that the deckload came up to those stairs?

O. Oh, no, sir, I didn't tell him anything of the kind, so far as I remember.

Q. Were you in the crowd when your picture was taken?

A. I don't know about that; you might have a look.

Q. Look at this picture, Respondent's Identification 4, is that your picture there with the cap on, by the rail?

A. That might be.

Q. Don't you know? A. Yes.

Q. The man standing up by the port rail?

A. Yes, sir.

Q. You were standing up on the rail at the time the picture was taken; you remember he asked you to stand up on the rail and you stood on the rail?

A. I believe I was; I don't know that he took those pictures himself; I don't think he did.

Q. But he was there when they were taken, and asked you to stand on the railing?

A. I don't think he asked me anything at all.

Q. You got up there on purpose so that your picture might be taken standing, didn't you? A. No, sir.

Q. Will you admit you were standing on the rail?

A. No, I would not say that I was.

Q. You would admit that is your picture standing there, would you not? A. No, I would not say.

Q. You never looked at yourself in a glass so that you know?

A. No, I never look at myself in a glass. I am afraid it might break them, and I believe they are very dear.

(Witness excused.)

MR. HENRY TAYLOR, a witness called and sworn in behalf of the Libelant, being duly sworn, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN)

Q. What is your name? A. Henry Taylor.

Q. How old are you? A. Forty-two years.

Q. How long have you been going to sea?

A. Twenty-five years.

Q. How long have you been on the Strathalbyn?

A. Close to seven months.

Q. What is your position aboard of her?

A. I signed as A. B. and got picked up as quarter-master afterwards.

Q. What were your duties aboard her on the night of the collision?

A. I was knocking around; standing by at the time of the collision; as long as I kept within the sound of the mate's whistle I knew when he wanted me.

Q. It was your duty to attend to the mate at that time? A. Yes, sir.

Q. Before you left Tacoma, did you have anything to do with the lamps used that night? A. Yes, sir.

Q. State what you did with them?

A. I took them out of the lockers, so that they could get at them, overhauled them, cleaned the insides, and if there was any dust put a piece of wasteup and wiped it off. I knew that they had not been used. Emptied the old oil out and put in new wicks and fresh oil, and after they were properly trimmed I lit them to see how they would burn.

Q. You did that yourself?

A. The third mate was looking on to see that I did it.

Q. But you did the work?

A. I was the man who did the work.

Q. You lighted them? A. Yes, sir.

Q. When did you light them first?

A. Between three and half-past.

Q. How long did they burn?

A. About a half hour.

Q. Then what did you do with them?

A. Blew them out and put them back into the cases.

Q. Were they all right? A. Yes, sir.

Q. Did you light them when they were to be put up? A. Yes, sir.

Q. How long was that before you started on the voyage?

A. About ten minutes or a quarter of an hour.

Q. Did you light them personally? A. Yes, sir.

Q. Have you ever served as lamp trimmer?

A. Yes, sir.

Q. Were these lights put out after you lit them,—set for the voyage?

A. I lit them and let them burn up awhile to see if they smoked, and put the wicks down a little until they

got a clear flame before I closed the doors and put them out.

Q. They were burning clearly and properly, and bright, when they were put out? A. Yes, sir.

Q. How were they burning? A. Bright.

Q. How were they burning compared with the way lamps are usually prepared by you for burning?

A. The same way.

Q. What do you mean by the same way?

A. The same as any other oil lamps I have been with.

Q. Did you fix the lamps for the masthead and two side lights? A. Yes, sir, and the stern.

Q. The ones that were used that night?

A. The ones that were used that night.

Q. Look at these lamps down here and state whether or not they are the same lamps?

A. Yes, sir, they are the same.

Q. Did you have anything to do with the lamps after they were put out, from the time you left Tacoma up to the time of the collision?

A. If they wanted anything done to them, I should have, but if they did I was there; but as for doing anything to them, I did not.

Q. It was your duty to attend to them was it?

A. Yes, sir.

Q. Do you remember when you passed the red light going to Seattle?

A. I didn't see that red light until they put her on the beach.

Q. Until you come back? A. Yes, sir.

Q. Do you remember approaching the Flyer?

A. I think it was pretty well on the beam when I saw her.

Q. Where were you after that time?

A. I was down to the entrance to the fittley.

Q. Did you hear the whistles to the Flyer?

A. I might have; I didn't notice; I don't remember.

Q. Did you hear the whistle to the Virginian?

A. The only whistles I heard was when she was nearly into us; three or four at once.

Q. Where were you when those whistles were blown? A. Right on the lower bridge.

Q. At that time did you observe the lights, when whistling to the Virginian? A. What lights?

Q. The port light or masthead light, or starboard?

A. I was leaning over the rail by the port light; I was bound to see it.

Q. You were leaning over the rail? A. Yes, sir.

Q. How long before the collision?

A. I think it was after the last blast, before I shunted away. I did not know where she would hit, and I wanted to get out of danger if I could.

Q. Did you observe the port light while you were hanging over it? A. It was burning bright.

Q. How did the Virginian appear to be approaching you at that time? A. She was off our port bow.

Q. You could see her distinctly could you?

A. I could see her lights well.

Q. Did you look at the starboard light?

A. I didn't go that far over.

Q. Have you any recollection of whether you noticed the masthead light burning at the time of the collision?

A. Looking up and forward I would be bound to see the reflection, like as if I was looking out of a window, I could see the top of that house, the same way.

Q. Did you put out the lights yourself?

A. Not all of them. The third mate took one and I took the other up and took it to the lower bridge and handed it over to him. I was standing on the lumber. Then went forward and put the masthead light out, and then went and took the stern light aft.

Q. Do you know what time the collision occurred?

A. I went into the wheel house about a minute before it happened, to look at the time, to see whether it was one bell.

Q. What time was it by the wheel house clock?

A. Twenty-three minutes to eight, then.

Q. Since these lights have been taken down, have you had anything to do with them? A. No, sir.

Q. They were put away in the locker?

A. I did not even put them away.

MR. HAYDEN: You may cross examine.

Whereupon an adjournment is taken until 10:15 tomorrow.

10:15 A. M. Friday, February 16th, 1912.

MR. HENRY TAYLOR, being recalled for cross examination, testified as follows:

CROSS EXAMINATION BY MR. HUGHES.

Q. How long have you been at sea?

A. Twenty-five years.

Q. How old are you? A. Forty-two.

Q. What had you done at sea.

A. Oh, knocked about, worked.

Q. What kind of work. A. Sailors work.

Q. Did you have charge of the lamps on this boat?

A. No, I did not have complete charge.

Q. Who did? A. I do not know.

Q. It was not anybody's business on this boat?

A. I couldn't say sir.

Q. How long were you on the boat?

A. If I live until next Sunday it will be seven months.

Q. Where were you lamp trimmer?

A. In Chicago City last January, to November, last year, running between Bristol, Swansea and New York.

Q. That is all the experience you had on boat as lamp trimmer? A. Oh, no.

Q. Who told you to fix up these lamps?

A. The bo'son.

Q. What is his name? A. Mr. Walterson.

Q. When did he tell you to do that?

A. After dinner.

Q. How long after dinner?

A. Directly, before we turned to.

Q. What were you doing when you turned to?

A. I went straight to the lamps.

Q. Did you have anything else to do that day?

A. I was sleeping the rest of the time in the forenoon.

Q. Did you have anything else to do that afternoon? A. No, sir.

Q. Did the rest of the crew have anything to do?

A. Oh, yes, they were lashing cargo, clearing up, getting ready for sea.

Q. What did you do with those lamps?

A. I trimmed them.

Q. Had they ever been used before?

A. The lamps themselves had.

Q. What for?

A. I don't know; somebody might had one of them in the room to warm it up where they had no bogie flue in.

Q. The wicks were in them?

A. Yes, and they were burned, so that they must have been used.

Q. How much had they been burned?

A. I could not say; there was a slight crust on them.

Q. Did you take the wicks out?

A. I took them out complete.

Q. And how much had been burned; you should be able to tell?

A. Some ships only put a wick to the bottom of the lamp, and some have six or eight inches down at the bottom.

Q. How were these?

A. These were about three inches on the bottom of the lamps.

Q. Had all three lamps been used before?

A. Well, yes.

Q. You are sure about that?

A. I am pretty sure. All three wicks had been used, whether in that lamp or before, I could not say.

Q. All the wicks had been used before?

A. Yes, sir.

Q. Now these lights had never been used; the captain,—(interrupted)

A. That is, not for the purpose of masthead and side lights.

Q. Would the crew be allowed to take out these lamps and use them around the ship? A. Oh, no.

Q. Did you ever see the lamps used during the six months you were on board? A. No.

Q. Never saw any member of the crew tamper with these lamps in any way? A. No.

Q. Was there any oil in those lamps when you went there? A. Yes, sir.

Q. In all of them? A. Yes, sir.

Q. Any oil in the masthead light? A. Yes, sir.

Q. Oil in all of them? A. Oil in the locker.

Q. How much oil in them?

A. They were pretty well full.

Q. So that you did not have to put in oil?

A. Yes I did; I had to fill them.

Q. How much did you put in?

A. I emptied out the old oil and refilled them.

Q. Each of them? A. Each one.

Q. You are sure of that? A. Certain.

Q. Where did you get the oil? A. Out of the tank.

Q. What kind of oil was that? A. Colza.

Q. Is that the same kind of oil that was used in the other lamps there?

A. The same that is used in her lamps.

Q. In whose lamps? A. In this one.

Q. But you say you never used those lamps before?

A. The same as used in the bulls eye and dock lamps.

Q. And in the lamps in the engine room?

A. I dare say; I have nothing to do with that.

Q. You never cleaned or trimmed them? A. No.

Q. Did you ever fill the other lamps around there?

A. I used to trim the riding lights.

Q. Did you use colza oil in them? A. In one.

Q. What did you use in the other? A. Paraffine.

Q. You put colza oil in that lamp which you put on the stern of the ship? A. Yes, sir.

Q. Where did you find these three lamps?

A. In their lockers; in the lamp room.

Q. That room is the place where they keep all the ship's lamps? A. All the deck lamps.

Q. Did you find the cages that they used there also, the cages that they put these lamps in?

A. I didn't know they put them in cages, only the masthead light.

Q. I am talking about the masthead light?

A. They don't use the cage *unless they are going to use it* REGULAR. Some ships don't believe in cages.

Q. Do you know where the cage for this masthead lamp was? A. No, sir.

Q. You have often used those masthead lamps with the cages, haven't you? A. I have used them, yes.

Q. What sort of a cage do they have?

MR. HAYDEN: I object to all this as immaterial.

A. It is the same shape as the lamp, and the bottom comes up about a quarter of an inch below this.

Q. What is that?

A. Below the bottom of the lamp, and the top band comes up here.

Q. And the lamp sits inside the case?

A. Yes, sir, tightens it to.

Q. And the cage is of what?

A. Galvanized iron or something like that; some metal.

Q. And on the outside of the cage there are rings like on this lamp? A. Yes, sir.

Q. And on the inside of the cage, rods that run through these rings in this lamp to hold it in place in the cage? A. There is a wire guide on each side.

Q. I am talking about when they put them in the cage. There is a guide that runs through the rings to hold it in the cage, isn't there?

A. No. It will stay in the cage, unless you turn it upside down. You couldn't shift it when it is in the cage.

Q. At any rate, you did not find any cage there at all? A. No.

Q. And you filled and trimmed these lamps and lighted them? A. I did.

Q. What did you light them for?

A. To see that they would burn; to see if the wicks needed retrimming.

Q. Did you find it necessary to retrim them.

A. Yes, to cut out the ragged ends.

Q. Did you light them again? A. Yes, sir.

Q. What did you do that for?

A. If you ever trimmed a lamp, you would know that a wick that is new would not burn properly. You

let it burn for a little while so that it will burn off even across.

Q. But I thought you said these were not new?

A. Oh, yes, they were new wicks.

Q. Did you get new wicks and put in?

A. The *third mate* brought them to me.

Q. You put in new wicks then? A. Yes, sir.

Q. Then as a matter of fact these wicks had never been burned before you lit them?

A. Only that afternoon.

Q. You started them to see if they were trimmed properly? A. Yes, sir.

Q. And then you put the lights out? A. Yes, sir.

Q. And you took each one and fitted it, and trimmed it, and tested it, and when you got through with that, you took the next one?

A. No, I trimmed one after the other first, and lit all four together.

Q. And then you trimmed them all after you lit them? A. No, before I lit them.

Q. You didn't have to trim them after they were lit? A. They were filled up with oil then.

Q. I say trimmed them?

A. When you talk about trimming lamps you fill them with oil and see that the wicks are right; that is trimming.

Q. I am asking if after you lighted them you had to trim them again? A. No, sir.

Q. They were all right the first time. A. Yes, sir.

Q. Then as a matter of fact you put in the new wicks and filled them with oil and lit them and found them all right? A. Yes, sir.

Q. And as soon as you found they were all right you put them away? A. Yes, sir.

Q. Do you know how long they burn when they are filled once?

A. They are supposed to burn 16 hours.

Q. You don't know how long these particular ones would burn?

A. If you would get a lamp out of another ship like her, the same kind of a light and same oil, you could make a good guess.

Q. But you don't know anything other than that?

A. That is all.

Q. You only had that one night's experience with them? A. That is all.

Q. Did you light the lamps that evening again?

A. Yes, sir.

Q. All of them? A. Yes, sir.

Q. What time did you light them?

A. I had finished my tea, and they sang out "Lights out," and they started to heave away at anchor.

Q. Who told you to light the lights when they started that? A. I did the trimming of them.

Q. Did anybody order you to light them?

A. It was my place.

Q. Is that your regular duty on the ship?

A. It was that day.

Q. Did anybody order you that evening to light the lights, and if so who was it?

A. I heard the order come down from the deck, "Lights out," and it was my place to light them, and I went and lit them.

Q. To whom did you give the side lights?

A. One to the third mate.

Q. What is his name? A. Mr. Sterling.

Q. Which one did you give to him?

A. I think it was the red one; I would not be certain. The first one that came handy.

Q. To whom did you give the other?

A. I took that along myself.

Q. The other side-light? A. Yes, sir.

Q. Who put it out? A. The third mate did.

Q. So that the third mate put up both lights?

A. He put them in the screens.

Q. To whom did you give the masthead light?

A. Cameron. I was standing at the aft ladder by the hatch.

Q. That is right in front of the forecastle?

A. Yes, sir.

Q. And he took it up on the cargo, and that is all you know about that?

A. That is all I know, except that I saw it up there afterwards.

Q. Then the rear lamp you took back yourself?

A. Yes, sir.

Q. What kind of a lamp was that?

A. The same as this one.

Q. The same as the masthead light? A. Yes, sir.

Q. Where did you put that?

A. Over the stern; just outside the rail at least.

Q. How did you fasten it there? A. Lashed it.

Q. It was there all the time was it? A. Yes, sir.

Q. Now what did you do after that?

A. I think I went and had a smoke.

Q. Were you on duty any more after that before the collision? A. In case I was wanted, I was.

Q. Were you ordered to do anything after that, and before the collision? A. Oh, yes.

Q. What?

A. I had to go look at the stern light and see if it was burning.

Q. Did you? A. Certainly.

Q. How many times did you do that?

A. About a quarter past seven. I did not notice particularly. I know I came back and it struck three bells.

Q. That was burning the same as the masthead light, was it?

MR. HAYDEN: Object to that as immaterial.

A. It was out.

Q. What was the matter? A. It blew out.

Q. It blew out? A. I expect it did.

Q. Did you light it again? A. Certainly.

Q. How many times did it go out on you?

A. Only that once.

Q. What time was it that you relighted it?

A. When I went aft, about, between 20 and half-past seven. I was back by half-past seven.

Q. How long had it been out?

A. It was not cold; it could not have been out long.

Q. How long had it been since you had been back there to it before?

A. Not from the time I put it there.

Q. Was that the first time you went back to look, it was out? A. Yes.

MR. HAYDEN: I want my objection to run to all these questions about the stern light.

Q. After you lit that stern light, what did you do?

A. I went back up on the bridge and struck three bells.

Q. What bridge?

A. Well I didn't strike the three bells; I went in and took the wheel. We have an agreement between the quartermasters that when we strike the wheel, the one up overhead strikes it.

Q. That was what time? A. Half-past seven.

Q. What did you do after that?

A. Took a bag of coal forward to the bogy.

Q. What was the next thing?

A. I came aft then on the bridge, waiting for the one bell.

Q. On the lower bridge? A. The lower bridge.

Q. Waiting for the eight o'clock.

A. No, for the one bell.

Q. That would be what hour?

A. Quarter to eight.

Q. What was the next thing you did?

A. Well, I shifted over to the other side pretty quick.

Q. Which side? A. Starboard.

Q. What for?

A. Well, if you saw a horse coming into you, would you shift.

Q. You saw the other boat apparently coming into you at that time? A. Yes, sir.

Q. About the time you expected the quarter to eight bell?

A. About the time I was going to see whether it was a quarter to eight.

Q. Did you go to see?

A. I went in at 23 minutes to eight.

Q. By the ship's clock; how much slower was that than the ordinary time on the sound?

A. I could not tell.

Q. Didn't you have a watch? A. Yes, sir.

Q. Did you have it set by local time?

A. No, by ship's time.

Q. How long was it after you saw the time 23 minutes to eight that this collision came?

A. I just came out of the wheel house, and I thought she was on top of us, and I shifted over to the other side.

Q. You came out of the wheel house on the port side? A. Yes, sir.

Q. And saw this other vessel pretty near on top, so close you knew there would be a collision?

A. I knew if she didn't shift pretty quick there would be.

Q. It was close enough so that you ran, expecting a collision? A. I didn't exactly run.

Q. You went across to the other side because you thought that there would be a collision? A. Yes, sir.

Q. That was the first time that you had paid any attention to the ship ahead?

A. Oh, no; I had seen her there before.

Q. There wasn't anything unusual about it prior to that, so that you did not pay any especial attention?

A. Oh, yes, there was.

Q. Did you notice anything unusual about the ship ahead of you before you went in the wheel house to see the time? A. Oh, yes.

Q. What did you notice?

A. I noticed it; she had her green light to our red, and that is unusual, in a narrow channel like that.

Q. How far away did she seem to be?

A. I couldn't say; a mile or a mile and one-half away.

Q. If it was that far, it would not be unusual for her to show her green light to your red? A. Yes.

Q. They often cross your path in the inland waters like this?

A. I never saw it, unless they are so far ahead—

Q. I am talking about a distance of a mile or mile and a half? A. Yes.

Q. There would be nothing unusual to see a green light ahead that far, in an inland water?

A. That is, if she was right ahead.

Q. Which way was she?

A. Way off on our port bow.

Q. Way off on your port bow? A. Yes.

Q. Pretty nearly broadside of your port bow, apparently crossing the course? A. No, not broadside.

Q. How far off of your port bow?

A. She seemed to be three or four points off.

Q. Did you stop and look at her? A. Oh, yes.

Q. How long did you stand and look at her?

A. Oh, about five minutes I suppose; it seemed like that to me at any rate.

Q. Did your ship give any whistles at that time?

A. Yes.

Q. Did you pay any attention to those whistles so that you know how many were given? A. No.

Q. Did you notice whether your ship was changing her course?

A. I heard the pilot sing out port.

Q. How many times did you hear that?

A. I remember once; I could not say as to any other time.

Q. You were on the deck below the pilot?

A. Yes, sir.

Q. When the collision actually occurred you had got on the starboard?

A. I was just about by the telegraph.

Q. On the lower bridge on the starboard side?

A. On the lower bridge.

Q. What did you do immediately after the collision occurred? A. We all sat down.

Q. What was the next thing you did?

A. Then the cry came to get the boats ready?

Q. Did you help get them ready?

A. Yes, I took the covers off.

Q. On the starboard side?

A. No, the port small boat.

Q. Who helped you get that out?

A. Three or four chaps there.

Q. Did you assist with taking out and relighting the starboard light, the green light? A. No, sir.

Q. Did you see anybody else doing that? A. No.

Q. You knew that the starboard light was out, didn't you? A. No, sir, I did not.

Q. Do you mean to say you did not know the star-

board light was out after the collision, and that one of the men relit it? A. I did not, sir.

Q. Where did you get the wicks you put on these lamps? A. From the third mate.

Q. Do you know where he got them? A. No.

Q. You didn't see him get them? A. No, sir.

Q. Don't they keep those wicks in the lamp room?

A. Oh, no.

Q. Did you have anything to do with taking down these lights or cleaning them afterward?

A. I did not touch them.

Q. Have you ever touched them since? A. No, sir.

Q. Or had anything to do with them since? A. No.

Q. Do you know who took care of them afterward?

A. No, sir.

Q. Or who brought them over here?

A. I helped; that is the first time I saw them.

Q. You helped to bring them over from Victoria?

A. Yes, sir.

Q. Did you take them out of the lamp room when they were brought here from Victoria? A. No.

Q. Do you know whether these are the same lights you lighted that night?

A. Well, I should say they were. There was only one set.

Q. But do you know whether these are the same lights you lit that night?

A. This is one, I know that, and I expect the others are.

MR. HAYDEN: Look at them and see.

A. Yes, sir, they are all the same.

MR. HUGHES: Do you know who took these lights down that night after you got to Tacoma?

A. No, sir.

Q. You did not take any of them, not even the stern light? A. Not even the stern light.

Q. Do you know who cleaned them afterward?

A. No.

REDIRECT EXAMINATION.

(BY MR. HAYDEN.)

MR. HAYDEN: Now without waiving my objec-

tion to the immateriality of the testimony relative to the after night, I will ask Mr. Taylor:

Q. What did you do with the stern light when you put it out, as to regulating it and fixing it, so that it would burn?

A. There did not happen to be any wind around and I lifted the top up like this (indicating), so as to give it more ventilation, so that it would burn better.

MR. HUGHES: When you relit it, you did that?

A. No, when I relit it I put it down; that is the reason it went out.

MR. HAYDEN: What made it go out?

A. I think going around the points and curves, it got too much wind.

Q. And blew it out? A. Yes, sir.

Q. Mr. Hughes asked you if you did not know that the starboard was out. I will ask you whether or not you knew it was burning immediately after the collision?

A. Just after we got the port boat ready for swinging out I went over to take the cover off the starboard boat, and I was outside of that starboard boat, and the green light was burning then.

Q. Is colza oil the usual kind of oil burned in sea-faring business, with these side lights and masthead lights?

A. It all depends on the owners. Some believe in it and some do not.

Q. It is a usual oil? A. It is a usual oil.

MR. HUGHES: I object to this as leading.

Q. Is it or is it not frequently used, if you know?

A. I have been on several ships where they used it.

Q. You spoke about dinner; what hour do you have dinner on board your ship?

A. From 12 o'clock to one.

(BY MR. HUGHES.)

Q. You have had a good deal of experience in filling and trimming lamps on the various ships you have been on, have you? A. Yes, sir.

Q. What kind of oil have you usually had on ships for the side lights and masthead lights?

A. Well we will say six boats out of ten will use paraffine.

Q. And what other kind of oil is used? A. Colza.

Q. Besides colza and paraffine?

A. There is what they call cera oil, a kind of a wax.
(Witness excused.)

MR. JOHN R. WALTERSON, a witness called and sworn in behalf of the Libelant, testified as follows:

DRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. What is your name? A. John R. Walterson.

Q. How long have you been going to sea?

A. About 14 years.

Q. What was your position on the Strathalbyn on the night of the collision with the Virginian?

A. Bo'son, sir.

Q. How long have you been with the Strathalbyn?

A. Six months and three weeks, I think.

Q. You have been bo'son all the time?

A. Bo'son all the time, sir.

Q. In making the ship ready for sea, did you have anything to do with the lashing of the cargo?

A. Yes; I saw the cargo lashed, and likewise helped lash it.

Q. Please describe how the cargo is lashed?

A. After all the lumber is on board, we lower the derricks down and take these spans off the derricks which hold them up; put the two ends on the deck, or the stanchions, or whenever an eye bolt may be, and take up the bight with the block on each side, and reve the chain back and forth, and set it up with the winches; set it tight.

Q. You make sort of bridles out of those?

A. Yes, bridles.

Q. Where are both ends made fast?

A. Made fast to a bight taken up on the lumber; a block on the bight.

Q. The same on both sides? A. Yes, sir.

Q. And then you reve the wire rope through these blocks? A. Yes, sir.

Q. How do you set them up?

A. After you are through you have another block

on the forecastle head, make a straight lead to the windlass end and heave it tight.

Q. Were you engaged in the work during the afternoon?

A. During the afternoon, right up to the time we hove anchor.

Q. Do you put anything on to the stanchions to hold them in place?

A. Guys, that is on the derrick, and tackle with the wire at the end. If we haven't enough of them, we put on small tackles from one to the other.

Q. How are those stretched across the deck?

A. From stanchion to stanchion; made fast around the stanchion, and then set up with the tackle.

Q. With a block on each separate piece?

A. Two blocks for each two stanchions.

Q. To each of these ropes that are attached to the stanchion and block in the end?

A. There are two blocks between each two stanchions; you have more power and set it tighter.

Q. When you have these pieces running from each of the stanchions, then you reve a wire rope through the blocks and heave that tight again with the winch?

A. With the winch, yes.

Q. The same as you do with the bridles?

A. The same as with the bridles, yes.

Q. Have you done that same thing before?

A. On lumber ships; I have been on several lumber ships; it is all the same thing.

Q. Do you know what the effect of that is on the timber cargo?

A. It draws it altogether; draws it tight.

Q. How much would you think it would draw the lumber cargo such as was on the Strathalbyn, together?

A. Oh, six inches; towards the center, together.

Q. After you had finished that work, what did you do?

A. I stood by the forecastle head, and then to see that the anchors was up.

Q. After the anchor was up, what did you do?

A. Stood by there a bit until all was clear, and then went to my room.

Q. Where is your room?

A. On the port side forward. On the port side of the alley-way, forward.

Q. In the forecastle head?

A. Yes, in the forecastle head.

Q. What were you doing at the time of the collision?

A. I had just gone to get some water to wash myself when it took place.

Q. What did you do after the collision?

A. I rushed on deck then; I looked around the bow at the damage, and then to get the boats ready.

Q. What boats did you get ready?

A. The first, the port boat, and then the starboard boat, life boats, and after that the port small boat.

Q. How many boats have you on the port side?

A. Two on each side.

Q. How many life boats on the port side? A. One.

Q. Where is this small boat you mentioned, located?

A. On the chart room deck, or lower bridge deck.

Q. Where is that with respect to the port light?

A. Just abaft the light.

Q. Did you notice the port light after the accident?

A. I did when I put out the boat, on top of it then.

Q. Did you notice how it was burning?

A. Burning bright then.

Q. Did you notice any other lights on this vessel immediately after the accident?

A. I saw the masthead light, as soon as I rushed up the ladder from the room.

Q. How did that appear to be burning?

A. Burning bright then.

Q. Are you the bo'son who brought these lights from the ship?

A. Yes, I gave the lights to the men to carry.

Q. Do you know whether these lights in evidence here are the lights used on the ship that night?

A. Most certainly, the same lights.

CROSS-EXAMINATION.

(BY MR. HUGHES.)

Q. Are these lights now in the same condition they

were in when taken down that night on your arrival at Tacoma?

A. The same condition; exactly the same except there is no oil in them now. I took out the oil to make them lighter to carry.

Q. Is that the reason you emptied them?

A. Yes, sir.

Q. Did anybody instruct you to empty the oil out?

A. The chief officer told me I might empty them to make them lighter to carry.

Q. He did not tell you he wanted the oil out so that there would not be any oil here to sample?

A. Oh, no, but to make them lighter.

Q. Did you help take the lights down that night?

A. No.

Q. Did you order anybody else to take them down?

A. I ordered some of the sailors to take in the lights.

Q. Do you know who did it?

A. No, they were all on deck.

Q. Do you know who put the masthead light down?

A. No, I do not.

Q. Do you know how many times if at all the stern light went out?

A. I didn't know it was out at all until now.

Q. Do you know whether any other lights went out that night at all at any time?

A. I never heard of any.

Q. You say you saw the masthead light when you started, after the collision, to climb up over the deck cargo?

A. Yes, sir; I saw the light as I came up the ladder.

Q. And when you took down the port life boat, you saw the port light?

A. The port small boat; it is right alongside the light.

Q. Those were the only two lights you observed?

A. Those were the only two lights I saw.

Q. You also helped to take down the starboard boat?

A. The starboard was not out, that is the small boat.

Q. But the life boat? A. The life boat, yes.

Q. This man Taylor also helped you, didn't he?

A. On the life boat, yes.

Q. When taking that down, you didn't see the star-board light?

A. No, we were too far aft on the life boat; you can see it on the small boat.

Q. You were behind the starboard light where neither you nor he nor anybody could see it?

A. He could see it on the small boat, not the life boat. We only took the cover off the small boat to make it ready. Two men can do that; I was not there.

Q. After you had this ship loaded, were the stanchions on either side up against the rails of the ship on each side? A. Yes, sir.

Q. It was loaded the same forward as aft?

A. I expect so.

Q. I show you this exhibit number 4, that is a photograph of the Strathalbyn, is it? A. Yes, sir.

Q. Showing the saloon cabin, saloon deck and lower bridge and rail of the upper bridge?

A. Yes, I believe so.

Q. Now you were in this room yesterday, were you? A. Yes.

Q. You heard me ask one of the witnesses whether he was there when Mr. Moodie was there on the boat when the photographs were taken?

A. Yes, I heard that.

Q. You saw Mr. Moodie, did you?

A. I saw him. I didn't know whether it was Mr. Moodie or not.

Q. You talked to him?

A. No, I did not have anything to say to him at all.

Q. Well he spoke to you?

A. No, he did not talk to me; I was there in the group, but he did not talk to me personally.

Q. Didn't he ask you how high the lumber was, and didn't you say to him that the lumber came up to this molding at the top of the cabin saloon?

A. Certainly not, he did not talk to me personally.

Q. Didn't you say to him that the lumber came up to about the molding on the cabin saloon?

A. No, no gentleman about the ship asked me any such question.

Q. Did you make such a statement to him?

A. No, sir, to no one.

Q. That was the truth, however, wasn't it?

A. No.

Q. How near did it come to it; how close was it piled to the cabin saloon, what space was left between the lumber and the cabin saloon?

A. Three or four inches to stop the chafe of the paint work.

Q. Didn't Mr. Moodie ask if the lumber came up to these port holes, and you answered that it came clear up to here—pointing to the rail or molding on the top of the saloon cabin?

A. No; Mr. Moodie nor anyone else asked me any such question.

Q. How high is that railing on top of the saloon cabin?

A. I don't know; I have not measured.

Q. Is it three or four feet?

A. I don't know, I am sure; about that; I would think about three feet high.

Q. When you went back to take down the life boats, to make ready the life boats, you came back along the port side, didn't you? A. Yes, sir.

Q. That was on account of the list in the ship?

A. On the starboard side.

Q. You followed along the life rope stretched along the stanchions? A. Yes, sir.

Q. Holding fast to that, as you walked back?

A. Yes, sir.

Q. When you got aft, you climbed over that railing on top of the cabin saloon and walked back on the lumber cago until you got to that point and climbed over that railing?

A. No, I passed through here.

Q. But you came down and passed underneath that deck? A. Yes, sir.

Q. Along the saloon? A. Along the saloon, yes.

Q. Then you would have to come down several steps off the lumber and cross on to the saloon deck that

runs along by the cabin saloon underenth the lower bridge?

A. I went under the lower bridge, yes.

Q. Then you went up from there; you went up the stairway? A. On the boat deck.

Q. That would be the same deck as the lower bridge is on?

A. It would be about the same level; they are not connected.

Q. It is behind it? A. Behind it.

Q. Do you know Mr. Lindberg, one of your crew at that time?

A. I did not know him. I saw a new man on the ship, but did not know his name.

Q. You knew who he was?

A. He was shipped as sailor, I suppose.

Q. Did you see him helping put up the starboard light that night?

A. I don't think he did that, or put out any lights at all; I didn't see him.

Q. After the collision I mean?

A. I did not see him.

Q. You did not see him around there?

A. I saw him around the deck, the same as the rest of the men.

Q. Did you see your third officer there?

A. Yes, sir.

Q. What is his name? A. Mr. Sterling.

Q. What was he doing at that time?

A. Standing by, helping to get at the boats.

Q. You say you saw the port light? A. Yes.

Q. Did you see that as you were walking back?

A. As I was coming back the second time after the boats were lowered, when I put out the small boat.

Q. It was burning just the same as the other lights?

A. Same as any ordinary lamp should burn.

Q. Could you see that as soon as you got here on the deck cargo? A. The port light?

Q. Yes?

A. As soon as I got out to the rail, to the outside, the stanchions.

Q. You did not walk back outside of the stanchions?

A. I could not walk outside.

Q. You could not walk very well in the air?

A. Not very well; haven't tried that.

REDIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. How tall are you?

A. Six feet and one-half inch.

Q. After this vessel got to Robinson's Point were you one of the men who got down in the boat and went around the bow to investigate?

A. Yes, sir, the port small boat.

Q. Did you observe the lights of the vessel at that time?

A. I could see the light as we passed.

Q. Did you see the port light and starboard?

A. I saw the port light as we were passing along the port side, from the place where the boat was lowered and came around the starboard side and saw the starboard light.

Q. They were burning at that time?

A. They were burning bright at that time.

Q. Mr. Hughes asked you if the stanchions were up against the rails when they were placed in position. Do you remember what if anything was underneath the port rail? The water service pipe.

Q. Did that project out or was it inside the inner edge; that is the inward edge of the bulwark rail?

A. Aft the engine room it is free from the back in; further along it is about an inch and a half projecting out, right forward.

Q. Do you know whether the stanchions rested up against that pipe?

A. There were square blocks of wood about a foot long and an inch thick put back of the stanchions to protect the pipe.

(Witness excused.)

MR. ARCHIBALD STERLING, a witness called and sworn on behalf of the Libellant, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. What is your name? A. Archibald Sterling.

Q. How old are you? A. Close to 21.

Q. How long have you been going to sea?

A. Five years.

Q. How long have you been with the Strathalbyn?

A. Seven months.

Q. What is your position aboard the Strathalbyn?

A. Third mate.

Q. Have you been third mate ever since you joined her? A. Yes.

Q. Were you on watch the night the vessel left Tacoma? A. No.

Q. When did your watch cease?

A. I was on duty until the chief officer relieved me on the bridge.

Q. About what time did he relieve you?

A. I could not state the exact time, but approximately half-past six.

Q. About a half an hour after you left Tacoma?

A. Yes, sir.

Q. Then you went to your room? A. Yes, sir.

Q. Where were you at the time of the collision?

A. I was in the second mate's room, below the lower bridge on the port side.

Q. Did you feel the shock of the collision at all?

A. Yes, I was standing at the time of the collision, and had to set down on the settee.

Q. After the collision, what did you do?

A. I immediately went up on the lower bridge.

Q. How long do you think it was after the collision before you got to the lower bridge?

A. About a minute.

Q. What did you do when you reached the lower bridge?

A. I looked at the light, the port light first and the starboard next, and looked up and saw the reflection of the masthead light on the stay.

Q. After that what did you do?

A. I obeyed the order from the bridge to get the port boat ready.

Q. Which boat was that? A. The port small boat.

Q. How long do you suppose it took you to get that port boat ready.

A. I could not give the exact time, but it was all ready within a quarter of an hour.

Q. Did you have any trouble with the falls being tangled?

A. Yes, I had some trouble with the after fall; somebody, I don't know who, lifted the fall out the wrong way.

Q. What was the effect of that?

A. It got tangled.

Q. Is that the boat that was subsequently lowered, and the men went around the vessel in?

A. That is the boat.

Q. What did you do after that?

A. I stayed on the lower bridge for some time waiting any orders that might come from the bridge.

Q. Do you remember the starboard light being out?

A. Yes, sir, long after the collision.

Q. About how long after?

A. I couldn't give the exact time, but about an hour and a half after the collision, I would say, or between Robinson's Point and Tacoma.

Q. Had you been on the beach at Robinson's Point?

A. Yes.

Q. How long do you suppose you were on the beach at Robinson's Point? A. I could not say.

Q. An examination had been made of the bow by the men in the boat, had it? A. Yes, sir.

Q. What did you do in connection with the starboard light?

A. I heard someone from the bridge say that the starboard light was dim, so I said to the sailor standing there at the time, I don't know who it was, to take it in and trim it.

Q. Did you see him take it out of the screen?

A. Yes, sir.

Q. How did it appear when he took it out of the screen? A. It was burning dimly.

Q. Did he take it in and trim it?

A. Yes, the sailor did.

Q. Did he put it back again? A. He did.

Q. Did you see him put it back again? A. I did.

Q. Is that the only time you know of of that light having been touched after the accident?

A. That is the only time.

Q. Or before the accident, from the time you left Tacoma?

A. I don't know anything about that, whether it was trimmed before the accident or not. I was below.

Q. After the accident, that is the only time?

A. That is the only time I had anything to do with it.

Q. What did you do after that?

A. Some time after that I got the bo'son and told him to take down the masthead light and have a look at it.

Q. That is Mr. Walterson? A. Yes, sir.

Q. Did you notice that he did so? A. I did.

Q. Did you go forward at that time to see the masthead light? A. Yes, sir.

Q. Did you observe it? A. Yes, sir.

Q. What was done with it?

A. He simply lifted the top and looked in and put it up again.

Q. He did not trim it? A. No.

Q. Or touch the wick? A. No.

Q. Is that the only time that you know of the masthead light having been looked at, after the accident?

A. Yes, that is the only time.

Q. And that was after your attention had been called to the starboard light being dim and you had fixed it? A. Yes, sir, it was after.

Q. Did you hear the whistles that were being given? A. Yes, sir.

Q. Can you tell what whistles were given?

A. I did not pay any attention to the whistles, but I heard two short blasts with an interval between them, and then I heard the danger signals shortly after that.

Q. You only remember hearing two blasts?

A. I only remember hearing two.

CROSS-EXAMINATION.

(BY MR. HUGHES.)

Q. Were you ever in a ship before, in a collision?

A. No, sir.

Q. That was your first experience in collision?

A. Yes, sir.

Q. It was quite dark around there, wasn't it?

A. What do you mean.

Q. The night was quite dark, wasn't it?

A. It was dark.

Q. The place was strange to you; you did not know how far you were from land? A. That is true.

Q. There was a good deal of excitement around there after the collision?

A. There was some excitement.

Q. As is usual in such cases, and generally, they were running back and forth rather aimlessly, weren't they? A. That is so.

Q. You would not undertake to state just what occurred there, or what the order of events was, would you?

A. I could not state clearly what the men were doing.

Q. You do not know whether the masthead light was taken down any other time that night aside from the time you have recounted, do you?

A. No, I do not know.

Q. Did anybody tell you to order the bo'son to take that masthead light down? A. No.

Q. You did it on your own motion?

A. I did it, yes.

Q. The light looked dim enough so that you thought you ought to take it down?

A. No, sir, it did not. I took it down as a precaution.

Q. Wouldn't that be a strange precaution, for a third mate to take, unless something prompted?

A. No, it is not strange at all under the circumstances.

Q. Were you up on the cargo deck when you ordered it done?

A. No, I was on the lower bridge at the time.

Q. Had you been up on the cargo deck under that light? A. No.

Q. Had you been in the small boat that went around the ship? A. No, I was not.

Q. Had you been forward of the masthead light at all? A. Not that I remember.

Q. Had anybody else suggested to you that you better take that masthead light down and have it examined? A. Nobody suggested it to me.

Q. You say you had noticed the reflection of the light against the forerigging or stays?

A. The fore-stay.

Q. You had noticed it prior to the time you ordered it down? A. Yes, sir.

Q. Some time prior to that?

A. I noticed it when I first looked up from the lower bridge after the collision.

Q. It was a pretty exciting time for you to make observations of that kind, wasn't it, a distance of 40 or 50 feet behind the masthead light?

A. That is what I did.

Q. The only way you could see anything of the light was by whatever reflection it made against the forestay, wasn't it? A. Yes, sir.

Q. Did you go up to see what the bo'son did?

A. I did.

Q. You went up on the deck cargo then?

A. Yes, sir.

Q. Followed him out there and saw him take it down? A. Yes, sir.

Q. Did he climb up to release it or could he do it from the deck cargo?

A. He could do it from the deck cargo.

Q. By the use of the pulley? A. Yes.

Q. So that all he had to do was to lower the rope by letting go the fastening at the pulley?

A. Yes, sir. He had to let go the stays first.

Q. What stays?

A. The stays that run through the rings here.

Q. Had he done that before you got up there?

A. I saw him do it.

Q. Where were they made fast?

A. To the lumber.

Q. So that when you ordered him, you were on the bridge? A. Yes, sir.

Q. Where was he?

A. I do not remember exactly, but he was near me; possibly on the deck cargo.

Q. So that he could get there before you?

A. Yes, he could.

Q. And he would get the first stays down before you could do anything, wouldn't he?

A. Well I might follow him.

Q. But you would have to go down off the bridge and go over onto the lumber and forward 40 feet?

A. No; I just stepped from the lower bridge.

Q. But did you go up to the foremast?

A. No, I did not.

Q. Then if you did not, you would be forty feet back of him? A. No.

Q. The foremast is forty feet or more in front of the bridge?

A. I went towards the foremast, but did not go up.

Q. He had to go up the foremast?

A. He had to go to the foremast, but not up it.

Q. But up to where the foremast came up to the lumber? A. Yes.

Q. But you did not go up there?

A. Yes, I went with him.

Q. Did you go clear up to the foremast?

A. I went along with him.

Q. He loosened the rope where it was looped at the pulley and let down the lamp at the cargo deck?

A. Yes, sir, he did.

Q. That is on top of the cargo? A. Yes.

Q. And examined it to see how it was burning?

A. He did.

Q. Did you notice what position these caps were in at that time when he let it down? A. Yes, sir.

Q. What position were they in?

A. The same as now.

Q. Lifted up a little? A. No, down.

Q. They were down then entirely? A. Yes, sir.

Q. So as to shut out any draft at all? A. Yes.

Q. Did he lift them up so as to give them better draft? A. Not that I know.

Q. You would not say that he did not do it?

A. I know he lifted the top up and had a look at the lamp and then put the cap down again.

Q. Did he open the lamp from behind? A. No.

Q. Did he burn the wick at all? A. No.

Q. Are you sure he did not?

A. I am quite sure he did not.

Q. Then he just hauled it up again? A. Yes.

Q. Right away? A. Yes, he did.

Q. When you gave him the order, what did you tell him?

A. I told him to take down the masthead light and have a look at it.

Q. You did not order him to go up and have a look at it simply without taking it down? A. No.

Q. You told him to take it down and have a look at it? A. I did.

Q. If he had gone forward and looked up at it he could have seen whether it was burning all right without taking it down?

A. He could see the lamp better if he took it down; and what I wanted him to do was to see that the lamp was burning brightly.

Q. And the reason was that you had found some of the other lamps, particularly the starboard lamp, had been burning very dim, and you wanted to see how this was; was that it?

A. No, that was not the reason.

Q. You thought he could not tell by getting in front of it on the cargo and looking up at it, whether it was burning brightly or not?

A. I did not think anything of the sort; I told him simply to take the lamp down.

Q. When was this, before or after you left Robinson's Point?

A. This was between Robinson's Point and Tacoma.

Q. How far were you this side of Robinson's Point toward Tacoma? A. I do not know.

Q. How long had you left Robinson's Point?

A. I do not know.

Q. You have no idea? A. No.

Q. Fifteen or twenty minutes? A. Longer.

Q. Half an hour? A. Longer.

Q. Three-quarters of an hour?

A. It would be longer than that.

Q. An hour; how long did it take to come in from Robinson's Point?

A. I know we finished tying up at the Government buoy about half-past one, but I cannot tell how long it took us.

Q. What time did you leave Robinson?

A. I do not know.

Q. Have you any idea? A. None whatever.

Q. Well you left there about half-past ten, didn't you? A. Possibly.

Q. How long was the bo'son engaged in examining this lamp; was it long enough to make a thorough and careful examination of it? A. Yes.

Q. Five or ten minutes altogether?

A. Five minutes would do it.

Q. But what occurred on this night?

A. I couldn't give you how long, but he took it down, had a look at it and put it up again. It is only a five minutes job.

Q. Was it just before this that the starboard light was taken out?

A. It was after I ordered the starboard light trimmed.

Q. How long was it that you ordered the starboard light trimmed before the masthead light was taken down? A. I could not give the exact time.

Q. Approximately?

A. Approximately five minutes, shortly after.

Q. Then you must have been a mile or two this side of Robinson's Point when this was done, you think?

A. I do not know.

Q. You haven't any idea just where you were?

A. I have no idea where I was at the time, or where the ship was rather.

Q. The fact is you don't know very definitely just when or where these things occurred do you?

A. That is true.

Q. Did you say that you had an order from the bridge to fix your starboard light? A. Yes.

Q. Who gave you that order?

A. I do not know.

Q. Don't you know the voices of the officers?

A. I know their voices, but I don't remember who gave the order. I know it came from the bridge.

Q. Was that because of the excitement, you certainly would know but for the excitement existing, the voice of one officer from another?

MR. HAYDEN: We object to that as improper cross-examination.

Q. Isn't that true?

A. I do not say that it is or is not, but the fact remains I heard the voice and obeyed the order, not knowing whose voice it was.

Q. You took the lamp out yourself, didn't you?

A. No, I did not.

Q. The man who lighted it and took it in the cabin didn't take it out, did he? A. He did.

Q. He testifies that you took it out and he took it in the cabin and lighted it?

A. He did not take it into the cabin; he took it into the wheel-house.

Q. Yes, the wheel-house. Did you do anything to the port light? A. Nothing at all.

Q. Do you know whether anybody else did at that time? A. Not to my knowledge.

Q. You say when you followed the bo'son up to the foremast, when he took down the light, and you gave him that order where, on the lower bridge?

A. Yes, I was on the lower bridge at the time.

Q. Did you climb over that rail and down out of the cargo and follow him forward? A. I did.

Q. About what is the height of that rail?

A. It is about three feet one, approximately.

Q. It is nearer three and one-half, isn't it?

A. No, I don't think so.

Q. You could step over across on to the cargo?

A. Well I would have a little bit of a jump.

(BY MR. HAYDEN.)

Q. You spoke about the wheel house; was there a light in the wheel house?

A. There may have been a small bulls-eye.
(Witness excused.)

MR. J. R. WALTERSON, being recalled, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. State what happened in connection with your examining the masthead light?

A. The third officer gave me orders to lower the light and look at it. Of course I had a man there and told him to lower it down, and he dropped it down like that and I looked down and saw the light was burning bright, and up it goes again; that is all.

Q. You did not take the lamp out yourself?

A. No, I just lifted it up and saw it was burning perfectly bright and told him to hoist it up again.

Q. State how you put the top down?

A. I just lifted it up like that, and put it down like that (indicating).

Q. You put it down in the ordinary way?

A. Yes, in the ordinary way.

Q. Whereabouts was the steamer at that time, the Strathalbyn?

A. About half-way, I would think, as far as I can recall—half-way between the point of collision and Tacoma.

Q. That is Robinson's Point you mean? A. Yes.

Q. Do you know whether you had been on the beach at Robinson's Point before that?

A. Yes, before that took place.

Q. How long would you say after you had been on the beach that this examination of the light took place?

A. I would say about an hour and a half after.

CROSS-EXAMINATION.

(BY MR. HUGHES.)

Q. How long were you on the beach?

A. About five or ten minutes I would think, not long.

Q. How fast do you think you traveled that night after the collision on your way back to Tacoma?

A. I don't know.

Q. A couple of knots an hour?

A. I don't know; I have no idea at all.

Q. None whatever?

A. No idea whatever; it might have been one or it might have been six.

Q. You say this occurred after you left Robinson?

A. An hour and a half after we were on the beach.

Q. Had you gone two miles you think?

A. I expect we had; perhaps more.

Q. You think you made over a knot and a half an hour?

A. We went very slow, but I haven't any idea.

Q. Now who was there with you when you took the light down? A. One of the sailors.

Q. Anybody else?

A. The third mate was around there.

Q. Was he up by your side?

A. Close by; I said the light was all right.

Q. How near was the third mate to you?

A. It might have been three or four feet.

Q. But do you know?

A. Standing there where we could talk to each other.

Q. Who did you order to take the light down?

A. One of the sailors.

Q. What was his name?

A. I do not know; the one who was handiest there.

Q. You do not know who it was? A. No.

Q. The sailors were not on top of the lumber cargo?

A. They were around the decks all right.

Q. They would not be around there unless ordered?

A. Three or four would be.

Q. What would they be on the lumber cargo for?

A. They had to be on top somewhere; there would be three or four around there, and perhaps two or three around the galley.

Q. You don't know who it was?

A. No; there were men there and I ordered one to do it.

Q. You didn't lower it yourself? A. No, sir.

Q. You saw him; did you order him before you got up there to let it down?

A. No, when I came there, there were two or three there, and I said, lower the light, and one of the men did it.

Q. Did you go in front of the mast to look at it before you ordered it down?

A. No, I just gave the order to lower it as I came along, and by the time I got there the light was nearly down.

Q. So that as you walked toward the foremast you ordered some fellow to lower the light, and by the time you got up there the light was down?

A. Pretty near down.

Q. Did you see him or was it pretty dark?

A. It was dark; there was no lights around there, only the masthead light.

Q. You could not see anything, only that you could see the light coming down?

A. I could see the man holding the halyards and lowering it.

Q. There would not be any light shining there until the masthead light would be pretty well down?

A. The man was up the rigging; the masthead light was up there, and we were standing around.

Q. You could see him standing up in the rigging?

A. Yes, sir.

Q. And letting it down? A. Yes, sir.

Q. Did you stand there and see him haul it up again?

A. Yes. I stood there a few minutes and held the wire guys until he pulled it.

Q. You held them, to keep it steady?

A. He hauled up the halyards; I had my hand on the wire guys.

Q. You took the guys and held them so that it would go up steady? A. Yes, sir.

Q. When he got it up, he made fast again the rope around the rigging and that held the lamp in place?

A. Yes, sir, that held it up in place.

Q. Now you did not turn up the wick?

A. I did not touch it. I lifted the top and looked down, saw it was burning all right and hoisted it.

Q. You say you put it back like this (indicating).

Now the top is raised a little; did you put it clear down tight?

A. Not like that; I did not slip it in, like that.

Q. You left it loose, not tight?

A. About like that.

Q. Was it loose before or was it down tight?

A. About the same as it is now.

Q. Are you sure it was not down tight so that it clamps?

A. It might have been down tight, but I don't know; but when I left that, I left it like that.

Q. But when you opened it, it was down tight?

A. I don't know whether it was or not; I cannot recall.

Q. And you left it loose so that it would have ventilation?

A. I was finished then.

Q. The reason you left it that way was so that it could have a little ventilation?

A. All lamps need a little ventilation like that.

Q. You did not examine the globe at all, but just looked at it from the top?

A. Just looked down from the top.

(Witness excused.)

1 o'clock P. M. Friday, February 16, 1912.

MR. JOHN SANDILANDS, a witness called and sworn on behalf of the Libelant, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. What is your name? A. John Sandilands.

Q. How old are you? A. Fifty-seven.

Q. What is your business? A. Marine engineer.

Q. Were you the chief engineer on the steamship Strathalbyn? A. Yes, sir.

Q. On the night of the collision with the Virginian?

A. Yes, sir.

Q. How long have you been with the Strathalbyn?

A. About 20 months.

Q. Were you in the engine room at the time of the collision with the Virginian? A. I was, sir.

Q. How long had you been there?

A. From the time I left Tacoma, with the exception of an interval of two or three minutes altogether before the collision.

Q. Did you note the revolutions that the engines were making during this time from Tacoma to the time of the collision?

A. Yes, I think I noted them three or four times.

Q. Do you know how many revolutions she was making the first time you took them?

A. About 50 I think per minute.

Q. Do you know how many the second time?

A. Forty-five I think it was; yes, forty-five.

Q. Do you know what she was making shortly before the collision?

A. From 45 to 46; I would not be exactly certain.

Q. What speed would she make on those revolutions? A. I would call it three-quarters speed.

Q. What is the regular speed, do you know?

A. She averages about eight or eight and one-half, nine, nine and a half, depending on the weather, and the conditions, whether loaded light or not.

Q. What then in good weather like you had that night, clear like that?

A. I would think about five or six knots on an average.

Q. At those revolutions?

A. At those revolutions, yes.

Q. Do you know the time she left Tacoma?

A. Somewhere about six. I have it down on the log book, six or six-five.

Q. Do you know the time you got the signal to stop just shortly before the collision?

A. Yes, I took particular note of that. I think it was 7:34 by the engine room clock.

Q. And when you got that signal to stop were the engines stopped? A. Yes, sir.

Q. Promptly? A. Promptly.

Q. Do you know the time the collision occurred by the engine room clock? A. Yes, sir.

Q. What time was it? A. 7:38.

Q. Did you receive a telegraph signal to reverse the engines at any time before the collision?

A. Yes, sir.

Q. At what time was that, if you know?

A. Seven thirty-seven.

Q. Who was on watch at the engines that same night?

A. There was the second engineer and the fourth.

Q. They are both here now? A. Yes, sir.

Q. What is your system of keeping a record of the movements of the engine?

A. We have a blackboard close by the engine clock. As the signals are given they are noted by the clock and put on the board.

Q. Who was at the clock? A. The 4th engineer.

Q. And who was handling the engine?

A. The second engineer.

Q. Were you standing where you could see them both? A. Yes, sir.

Q. From the blackboard how are the records transcribed into the log?

A. They are kept on the log slate, and then put into my room, and I take them off the log slate into the log.

Q. Did you see the recording of these signals as given down there at that time?

A. Yes, sir, I did. At the time of the collision I drew the fourth's attention, to be particular in noting down the exact moment it occurred.

Q. And what did he do in connection with that?

A. He did so. He put the mark across the figure at the time it happened.

Q. When you received the signal to reverse, do you know how many revolutions the engine was going on that signal?

A. Well, I could not say definitely, but my experience is it would be going over fifty; perhaps between fifty-four and fifty-five.

Q. Why do you say that?

A. Because I know by the way she was going, and the steam before they opened her out.

Q. Did they open her wide out on the reverse?

A. Yes, sir.

Q. Were you having any difficulty in keeping steam up that night?

A. Yes, sir, I had some difficulty.

Q. You had new coal and new firemen?

A. We had new coal and the firemen were not accustomed to stoking it.

CROSS EXAMINATION.

(BY MR. HUGHES.)

Q. You were not on duty that evening yourself?

A. Oh, yes, sir; I am always on duty leaving port for the first hour or two.

Q. And how long had you been out from port?

A. About an hour and a half before the collision.

Q. You were supervising there and remained there because the engine was having difficulty in developing her ordinary speed? A. Not altogether.

Q. That was partly so?

A. I anticipated that from the new coal. I had taken note of it on the donkey boiler a day or two previous, and naturally I was there to see how it would act.

Q. You thought that from watching the coal as it was put into your bunkers that probably you would have some difficulty in developing steam?

A. At the first go off, yes.

Q. And you found that experience when you came to developing her speed? A. Yes, sir.

Q. The coal you had taken aboard here was not as good a steam coal as you had previously been accustomed to, I suppose? A. No, sir.

Q. And required more stoking and more draft, I suppose.

A. It required more looking after and getting experience as to the best way to stoke. The men were inexperienced with it.

Q. Had you been burning bituminous coal before?

A. No, sir, I had not used that coal before.

Q. Previous to that you had been burning bituminous? A. In the donkey boiler.

Q. This coal was not pure bituminous?

A. It was what they call Lady Wellington, as they gave it to me; supplied at Tacoma.

Q. Did you find it necessary to use more draft or to do more stoking or both?

A. It did not require any more draft. We had good draft. No difficulty with any ordinary coal in keeping up steam.

Q. But you had difficulty with this coal; what was the nature of that coal?

A. A light burning coal, and burns away quick, and leaves pretty considerable ash behind it, and I find now on further experience that it requires to be stoked different from ordinary coal that we have been accustomed to.

Q. Did it require more or less draft?

A. About the same draft.

Q. But has to be stoked differently? A. Yes, sir.

Q. In what respect?

A. It must be fired lighter, and they must keep picking it up.

Q. In other words you found by subsequent experience that on that night you were firing too heavy?

A. Yes, sir.

Q. And for that reason you had not developed more than about three-quarters speed?

A. That is all, sir.

Q. What are the number of revolutions of your engine at full speed, say nine or nine and one-half knots?

A. Nine knots, about 57 to 58, in ordinary weather.

Q. Was there anything unusual in the weather that night affecting the draft? A. None whatsoever.

Q. Or affecting the difficulty of navigation?

A. No.

Q. So that the trouble was in the coal not being adapted to your burners, and not being accustomed to it?

A. Not being accustomed to its use.

Q. You kept your record on the blackboard there?

A. Yes, sir; taken down every 24 hours onto the log slip from the blackboard.

Q. Your custom is for one of the officers to record with chalk on the blackboard anything that takes place in the engine room; any order or direction given?

A. Yes, sir.

Q. Or any change of any kind? A. Yes, sir.

Q. Do you record the speed or number of revolutions? A. Not always.

Q. Did you that night?

A. No. I noted that myself by my watch.

Q. You timed it yourself by your own watch on two or three different occasions? A. Yes, sir.

Q. To see what number of revolutions were being developed? A. Yes, sir.

Q. And the reason for that was to see how this coal was working? A. Yes, sir.

Q. Did you go into the fire room yourself?

A. Yes, sir.

Q. Spend much time in the fire room?

A. Considerable; perhaps half there and half in the engine room.

Q. Did you experiment with it yourself?

A. I supervised the men and what they were doing and advised them what to do.

Q. Were you in the fire room or engine room when the signal was given to stop?

A. I was in the engine room.

Q. You remained there all the time afterward until subsequent to the collision? A. Yes, sir.

Q. Were you there when the bell to stop was given?

A. Yes, sir.

Q. Did your port engineer record it with the chalk on the blackboard? A. Yes, sir.

Q. Did you notice the time? A. Yes.

Q. By the engine room clock? A. Yes.

Q. Was that time the same as your watch?

A. My watch was set the same as the engine room clock.

Q. The engine room was about twenty minutes slower than local time?

A. I do not know; I could not say.

Q. What time have you now; have you the ship's time now?

A. No, I have got Tacoma time I expect; 22 minutes to two.

Q. You have Tacoma time now? A. Yes, sir.

Q. When did you change?

A. I don't suppose I have altered my watch since I arrived here; perhaps a minute.

Q. When did you change from the ship's time to local time?

A. I don't know what the ship's time is now.

Q. But you changed your time. As a matter of fact your ship's time that night was in the neighborhood of twenty minutes slower than local time?

A. I do not know.

Q. Do you remember how much you changed your watch? A. On what occasion?

Q. At any time when changing from local time to ship's time?

A. I did not alter my watch that day at all. I am talking about the engine room clock being set at the same time as the deck, before we started; I know that for certain.

Q. Who set the engine room clock?

A. Mr. Hamilton knows I think.

Q. He set it from the time in the chart room?

A. The second officer gave us the time.

Q. Your engines were immediately stopped on the signal? A. Yes, sir.

Q. In your experience with that ship, laden as it was that night, considering the condition of the weather and water, how far would she travel with the engines stopped and no reversing; suppose you were going at the same rate of speed with that condition of wind and weather, and just stopped your engines, how far would she travel with the load you had?

A. I would not like to say. She would be very near stopped in three minutes interval between the signal and the reversing.

Q. Don't you know as a matter of fact that the ship will run from ten to fifteen minutes before coming to a full stop? A. No, sir.

Q. That it would run for three-quarters of a mile with her momentum alone?

A. I don't believe it, no, sir. My experience is different from that.

Q. How many seconds would it take from a dead

stop to put the revolutions of the engine to the maximum of fifty-five to fifty-eight?

A. From three to five seconds, sir.

Q. Not longer than that?

A. Not longer than that.

Q. Does it take longer to put them full speed astern? A. No, not longer.

Q. The next signal you got after the signal to stop the engine was the signal to reverse, full speed astern?

A. Yes, sir.

Q. Who recorded that? A. The 4th engineer.

Q. Did you turn and watch him record it?

A. Yes, sir.

Q. Did you look at the clock to see?

A. I was not paying much attention after the collision.

Q. I mean before the collision, 7:35?

A. I did not exactly see the moment when the hand was on the clock, but it was about the same distance as this clock, and I saw him go to the clock and mark it down on the board.

Q. He recorded that before the collision?

A. Yes, sir.

Q. Are you sure of that? A. Certain.

Q. Now you felt the shock of the collision?

A. Yes, sir.

Q. Did you know there had been a collision?

A. Yes, sir.

Q. What number of decks is the engine room below the saloon cabin?

A. A considerable number of feet; I would not like to say.

Q. About how much?

A. Approximately twenty feet.

Q. With that ship laden as heavily as it was, the cargo above and beneath the deck fore and aft, did you feel any appreciable shock down there?

A. No, not very much.

Q. You did not know that a collision had occurred, as a matter of fact?

A. Oh, yes, I knew something had struck us.

Q. How long after the collision did you remain in the engine room?

A. I was there mostly all the time.

Q. Did you go out at all to see what happened?

A. I was up there perhaps twice before we got back to Tacoma.

Q. Immediately after you felt the shock, did you go out?

A. No, sir, I stayed below for a considerable time after the collision.

Q. How long after you felt the shock did you tell the fourth engineer to record it?

A. I told him at the moment, when I felt the shock.

Q. And he recorded it right away? A. Yes, sir.

Q. I understand you that that is copied off from the blackboard on a sheet of paper and taken up to your room where you keep the log, and you there record it in the log? A. Yes, sir, on the log slate.

Q. You keep the log slate in your room?

A. No, it is kept in the engine room.

Q. It is first copied from the board onto the log slate with a pencil? A. Yes, slate pencil.

Q. And that slate is taken to your room and you transcribe it into the engineer's log, do you?

A. Yes, sir.

Q. Who copied the entries on the blackboard into the engineroom slate?

A. The 4th engineer, I believe.

Q. Did you see him copy it?

A. No, sir, I did not.

Q. Did he bring it to your room? A. Yes, sir.

Q. When did he bring it to your room?

A. The following Saturday at noon.

Q. What did you do with that slate; did you keep it in your room? A. Yes, sir.

Q. Did you copy it into the log? A. Yes, sir.

Q. Did you make any changes in copying it?

A. No, sir.

Q. None whatever? A. None whatever.

Q. Did you erase what was on that slate?

A. I did, sir.

Q. Were the entries on that blackboard erased also?

A. Yes, sir; after being copied into the slate.

Q. Now you frequently make corrections before
you O. K. them, before they are entered into your log?

A. What do you mean?

Q. When the engineers bring copies of their logs to you with their entries on their part, you have to O. K. them before you enter them in your log, in your regular written log book?

A. Of course you don't put every little movement down, unless something happens.

Q. You often make corrections? A. Yes, sir.

Q. Did you make any corrections on that occasion?

A. No, sir.

Q. Did you the next day make any corrections?

A. No, sir.

Q. Do you mean to say you copied that slate word for word into your log without a single word of change?

A. Yes, sir.

Q. Or figure? A. Yes, sir, I do.

Q. What kind of lights did you have in your engine room?

A. That night it was the colza lamps, and paraffine lamps.

Q. You had both colza and paraffine lamps, did you? A. Yes, sir.

Q. How many of each?

A. A good many, I could not tell how many.

Q. Did you have more colza than paraffine?

A. The second engineer can tell about that better than I can. I did not pay much attention to that.

Q. Did you have the windsail on deck for the purpose of carrying the wind down to the engine room?

A. We have four hand ventilators.

Q. Did you have a windsail?

A. No, sir, not that night.

Q. Were your ventilators trimmed?

A. Yes, sir.

Q. Which way? A. I could not tell.

Q. Who trimmed your ventilators?

A. It is generally the firemen, or the trimmer.

Q. You would not get any wind unless your venti-

lators were trimmed, unless you had a head wind; I mean get any air or draft?

A. It depends on how the wind is.

Q. Do you know which way the wind was that night? A. No.

Q. You don't know anything about how the ventilators were trimmed?

A. I could not tell how they were; I know they were trimmed to get the wind; I felt it.

Q. Did you send a fireman to change or trim the ventilators?

A. I don't remember sending them up; they may have gone up; I could not say.

Q. Did you go up on deck yourself at any time to make any examinations there with reference to how your coal was working, as to the ventilators or the stacks? A. No, sir.

Q. Or as to the direction of the wind? A. No, sir.

Q. Yet you knew you were only developing three-fourths speed? A. Yes, sir.

Q. And you were using coal enough to develop full speed? A. I could not say.

Q. How is that? A. No, sir.

Q. Weren't you firing your fires as hard as you could, trying to develop the steam,—you wanted to develop the ordinary speed?

A. Yes, but how could we burn the same amount of coal on three-fourths speed as at full speed?

Q. That is what I am trying to find out,—what steps you took to see about it?

A. I told you the men were not accustomed to stoking it.

Q. It was your business to solve that problem as speedily as possibly, because you were wasting one-fourth of the energy of your coal, weren't you?

A. That may be.

RE-DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. With this coal, they had to put on light shovels full, and spread it out more than ordinarily?

A. Yes, that is what we find out now.

Q. And the men were firing too heavy?

A. Yes, with this coal they should put on less at a time, and it keeps the men busy.

Q. And with the other coal they could put on a greater quantity and then let it burn?

A. Yes. Since going up from Tacoma to Esquimalt we averaged eight knots with the same coal.

Q. Is it the usual thing, after you make your entries on the blackboard and slate and copy them into the log, to erase the sale and blackboard entries?

A. Yes, sir.

Q. The same as was done in this instance?

A. Yes, sir.

(Witness excused.)

MR. HAYDEN: Let the record show, if it is agreeable to you, Mr. Hughes, that the second and fourth engineers are here for you to question them, and if not, take the testimony of Sandilands on those points and not put them on, thus shortening the record to that extent. However, there is one question I would like to ask the fourth engineer, Mr. McGugan.

MR. ALBERT W. McGOUGAN, a witness called and sworn in behalf of the libellant, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. Your name? A. Albert W. McGugan.

Q. The log book shows you started slow ahead at six o'clock, is that the correct entry? A. Yes, sir.

Q. That is leaving Tacoma? A. Yes, sir.

CROSS EXAMINATION.

(BY MR. HUGHES.)

Q. You say you started slow ahead at six?

A. Yes, thereabouts.

Q. You recorded that time on the blackboard?

A. I did, in answer to the telegraph.

Q. When you got a signal to go ahead you made that record? A. Yes, answering the telegraph.

Q. That time was by the engine room clock?

A. The engine room clock.

Q. You have a watch yourself? A. Yes, sir.

Q. You didn't pay any attention to your own time but always went by the engine room time?

A. By the engine room clock.

Q. Did you compare the engine room clock with the ship's chronometer? A. No, sir.

Q. How did you get the time for the engine room clock?

A. It was set in the afternoon by the second officer.

Q. What is his name? A. Murray.

Q. Did you notice whether it was the same as local time? A. I did not notice.

Q. Did you start out before the ship hove anchor?

A. I don't remember, sir.

Q. Did you start ahead slow before you hove anchor?

A. That depends on how we were lying, how we were placed; I was down below and could not see what was going on topsides.

Q. The mate's log says they hove anchor at 6:05; do you think there was any difference between your time and their's? A. There may have been; I know not.

Q. Does your engine room clock show seconds as well as minutes? A. It did.

Q. Do you record seconds when you make a record on the blackboard? A. Not after a half minute.

Q. By some singular coincidence, every signal you got that night, everything you recorded was on the exact minute? A. That may be.

Q. Then you want us to understand that that might be a half minute or so from the exact time?

A. It certainly was not a half minute; it may have been under it, but not over it.

Q. Well if it was more than 30 seconds past the minute, you would record it a minute ahead?

A. Yes, sir, certainly.

Q. If it was less than thirty seconds past the minute, you would record it on the minute back?

A. On the minute back, yes.

Q. How many lights did you have in the engine room? A. Quite a number.

Q. Don't you know how many?

A. I didn't count them. I know the engine room was sufficiently lighted.

Q. Don't you know how many you had; did you have more than usual? A. Yes, more than usual.

Q. Why was it, because the lights were burning brightly?

A. No, they were not burning brightly.

Q. Why did you have more than usual?

A. Because we generally have electric lights.

Q. Did you go into the fire room at all?

A. I was in the fire room on one occasion only.

Q. What did you go in there for?

A. To open a valve.

Q. Did you go up on deck to see how the ventilators were?

A. I was up on deck but not to see how the ventilators were.

Q. What did you go up for? You were on duty there; why did you go on deck?

A. I went up after the collision.

Q. How soon after the collision?

A. Oh, a good while after, I couldn't state the time exactly.

Q. Did the chief engineer give you permission to go? A. I was sent out or I would not have gone.

Q. What for? A. To see what was wrong.

Q. When you were in the fire room were the lights the same as in the engine room?

A. Well, they don't have so many, but it was sufficiently lighted.

Q. How old are you? A. Twenty-two.

RE-DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. Referring now to the time that elapsed between the 7:34 stop signal and 7:37, do you remember whether you were nearer the half minute or the full minute when you recorded those, at the time you received the signals?

A. At 7:34, as far as I can remember, we were just on it.

Q. And how about 7:37, if you remember?

A. We were just on 7:37.

Q. And how about 7:38?

A. I had it exactly correct; the chief engineer called my attention.

Q. In other words it was not 7:38½?

A. No, it was not.

Q. And it was not 7:37½? A. No, sir.

Q. It was 7:38? A. Seven thirty-eight exactly.

Q. As near as you could tell by the time?

A. Yes, sir.

Q. And 7:37, was that as near 7:37 as you could tell? A. Yes, from where I was.

Q. It was not 7:36½? A. No.

Q. Do you remember that?

A. Yes, I remember it.

Q. Was it 7:37½?

A. No, it was not. If it had been 7:37½ it would have been entered as such.

MR. HUGHES.

Q. Where were you standing?

A. Alongside the telegraph.

Q. What direction is that from the clock?

A. Forward.

Q. Do you look straight at it or diagonally across the room? A. Straight at it.

Q. How far away from it?

A. About eight or nine feet I would say.

Q. Were your eyes good enough to see the second hand?

A. No, but I would have to go up close against it, to get at the blackboard.

Q. So that you could not see the second hand?

A. Oh, I think so.

Q. Was there any singular coincidence about the fact that you record in this log the word, "Stand by engines, 5:50," and "Slow ahead six; full ahead 6:05; stop 7:34; full speed astern 7:37; ship collided, 7:38; stop 7:39; full astern 7:40; half astern 8:07; slow 8:20", and so on throughout this entire log without the recording of a half minute or seconds at any time?

A. Yes. I didn't bother much about the half minutes after we struck.

Q. Now, to be perfectly frank, you bothered no more after did you, and no more before than after, did you? A. Yes, we did.

Q. Then you expected a collision that night?

A. No, sir, I did not.

Q. You had no reason to be more careful in one instance than the other?

A. It was my first experience with anything of that kind, and I did not know what was going on. I was a little upset.

(BY MR. HAYDEN.)

Q. You did as Mr. Sandilands told you, to be accurate about putting those items down?

MR. HUGHES: That is objected to as leading.

A. Yes, sir, I did so.

(Witness excused.)

MR. HAYDEN: Now, Mr. Hughes, do you want the second engineer?

MR. HUGHES: No, I don't think so.

MR. HAYDEN: Do you think you want the carpenter?

MR. HUGHES: I think not. Assuming it would be merely for the purpose of corroborating the mate's testimony about the measurements.

MR. HAYDEN: Yes.

MR. HUGHES: If that is the case, I care nothing about your putting them on.

MR. HAYDEN: We have two sailors to testify that they saw the headlight and sidelight burning, and helped out with the port boat.

MR. HUGHES: I couldn't tell anything about that. I don't know what they will testify as to that, and you may use your own judgment, as you know about them.

MR. HAYDEN: Well, I will call them.

MR. JOHN SEMRUK, a witness called and sworn in behalf of the libelant, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. What is your name? A. John Semruk.

Q. How long have you been going to sea?

A. Six years.

Q. How old are you? A. Twenty-one.

Q. How long have you been on the Strathalbyn?

A. Six months and twenty-five days.

Q. You were a sailor aboard her at the time of the collision with the Virginian? A. Yes, sir.

Q. On the watch below? A. The watch below.

Q. In the sailor's forecabin? A. Yes, sir.

Q. Right after the collision did you come out of the forecabin? A. Yes, sir.

Q. Did you notice any of the lights on the Strathalbyn?

A. Yes, I saw the masthead light as soon as I came out of the forecabin.

Q. Did you see any other light? A. The port light.

Q. How did the port light and masthead light appear to be burning? A. They were burning bright.

CROSS EXAMINATION (BY MR. HUGHES).

Q. Did you come out of the forecabin sailor's cabin after the collision or before?

A. After the collision.

Q. How soon after the collision?

A. I should say about a half a minute after she struck.

Q. Had you been called before the collision?

A. Yes, somebody sang out look out, and then she struck.

Q. What were you doing in the cabin?

A. I was sitting writing a letter.

Q. What was the situation there when you came out of the forecabin cabin; is your door right amidships?

A. There is an alley-way between the sailor's and firemen's forecabin, the same as the starboard.

Q. You stepped into this alley-way? A. Yes.

Q. And there was a pile of lumber?

A. Yes, and steps up.

Q. The lumber was high above you? A. Yes.

Q. You could not see any lights until you got up on the lumber?

A. I could see them from underneath, when I came up the steps.

Q. As you came up the steps, you could look up where you could see the masthead light? A. Yes, sir.

Q. Had you helped to put up that masthead light?

A. No, sir.

Q. Now when you got up, could you see the port light?

A. Yes, sir; a man got hurt and he went over to the port rail and I went to him to ask him what was the matter with him, and then I saw the port light.

Q. He had gone over and was holding fast to the rope stretched along the stanchions?

A. No, it was the rail nailed on to the stanchions.

Q. And he had climbed up along that listed cargo to the rail along the inside of the stanchions?

A. Yes, sir.

Q. And you came up and asked him what was the matter? A. Yes, sir.

Q. And while you stood there by the side of him, you looked back and saw the port light, could you?

A. Yes, sir, the port light.

Q. What did you do after that?

A. I went to lower down the boats?

Q. You went back over the deck cargo and fore-cargo to the bridge? A. Yes, sir.

Q. Climbed up over the bridge? A. Yes, sir.

Q. Then went on back to the boats? A. Yes, sir.

Q. On the port or starboard- A. Port side.

Q. Did you help lower the boats on the port side?

A. Yes, sir.

Q. Did you afterward help on the starboard side?

A. Yes, with the life boat.

Q. Wasn't there anybody lowering that when you got over there after you lowered the life boat on the port side? A. Yes, they were.

Q. Had you got it lowered already?

A. No, it was only pulled up.

Q. What did you do after that?

A. We swung it out to starboard.

Q. Then what did you do? A. Stand by.

Q. You stood by on the starboard side?

A. Yes, sir.

Q. Did you afterwards help the bo'son when he took down the masthead light and examined it?

A. Yes, sir.

Q. You did? A. Yes, sir.

Q. You were out on the deck cargo?

A. Yes, sir, I and Cameron.

Q. What were you doing on top of that deck cargo?

A. Cameron lowered down the light, and the bo'son opened the lamp and looked into it.

Q. Cameron lowered it? A. Yes, sir.

Q. Did you do anything?

A. No, I stood by looking.

Q. What did you see Cameron do?

A. He pulled up the light again.

Q. But first what did he do?

A. He lowered down the light.

Q. He unloosened the rope and lowered it down?

A. Yes, sir.

Q. And afterward pulled it up again? A. Yes, sir.

Q. And made the rope fast? A. Yes, sir.

Q. When you were in the forecabin before the collision, a number of other sailors were in there?

A. Yes, sir.

Q. And the bo'son?

A. No, sir; three more sailors.

Q. Wasn't the bo'son there?

A. No, sir; he was in his own cabin.

Q. Were the sailors drinking from a bottle of whiskey there?

A. No; they are not allowed to.

Q. I know that, but I am asking what they were in fact doing; didn't you see them passing a bottle of whiskey around?

A. No, sir; two were playing cards, and me and another fellow were writing letters.

Q. Which cabin were you in?

A. On the starboard side.

RE-DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. How was this man you helped, leaning against the rail?

A. He had his chest hurt, and was leaning forward like this (indicating). I put one arm on the rail and one like this, and asked him what was the matter.

Q. When you saw the light was your head outside the range of the stanchions? A. Yes, sir.

(BY MR. HUGHES.)

Q. You walked back along the stanchions?

A. Between midships and the port side.

Q. Didn't you follow the rail along the stanchions on the port side? A. No.

Q. What did you go back to midships for after you had been up to this man?

A. We went to the life boats.

Q. But I am talking about when you walked back over the deck cargo; did you follow along the port rail?

A. No, I could not, because there was rigging in the way.

Q. The line that run along the port stanchions,—didn't you walk along on the port side?

A. No, to the riggings, and then went between the midship and port side, and then went up to the bridge.

Q. Who was this man who was hurt?

A. William Urban.

Q. Has he been around here as a witness?

A. No, he is in the hospital.

Q. What made you put your head over outside the stanchions?

A. Nothing; just because I went to put one arm on his shoulder and another under the rail, and then asked him what was the matter, and I looked down.

Q. That would not put your head outside the stanchions? A. Yes, sir.

Q. Was he hanging over on the outside of the rail?

A. Yes.

Q. He was standing over outside the rail?

A. He was like this (indicating); the stanchion like this.

Q. Wasn't there a rope strung along there?

A. No, it was a wooden rail.

Q. You mean there was a wooden rail nailed to the stanchions? A. Yes, sir.

Q. Was there a rope strung along there, as the other witnesses say?

A. It was only in the fore part, from the first stanchion.

Q. And the rail was back further towards the bridge? A. Yes.

Q. Was this nailed to the stanchions back nearest the bridge? A. I don't understand.

MR. HAYDEN: Q. He is asking what was between the stanchions and on the port side next forward of the house, to hold on to?

A. There was a rope from the back stay to the stanchions, because a wooden rail could not be around the back stay.

Q. Where does that come down near that cabin?

A. From the rigging.

Q. Was there a rope from the rail on the cabin up to the first stanchion? A. Yes, sir.

Q. Do you know how far that rope went forward?

A. Only from the first stanchion.

(Witness excused.)

MR. ANDREW BROWN, a witness called and sworn on behalf of the libelant, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. How long have you been on the Strathalbyn?

A. Since I joined, nearly seven months.

Q. What is your name? A. Andrew Brown.

Q. How old are you? A. Thirty-six.

Q. How long have you been going to sea?

A. Fifteen years.

Q. You were off watch on the night of the collision? A. I was in the forecabin.

Q. Down in the cabin with Semruk?

A. I was playing cards at the time with Deyslan.

Q. You were hurt in the collision were you?

A. I got squeezed around the back.

MR. HAYDEN: You may cross examine on any line you see fit, with the statement that he will corroborate the testimony of Mr. Semruk and the sailors as to the light.

MR. HUGHES: I don't care to cross examine the witness, and of course not the testimony of counsel.

(BY MR. HAYDEN.)

Q. After the collision did you come out?

A. I was the last out.

Q. Did you see any lights on the Strathalbyn?

A. I did.

Q. What lights? A. The masthead first.

Q. What other light? A. The port light.

Q. Were you ever where you could see the star-board light? A. No, sir.

Q. How did the lights appear to be burning?

A. In the usual way, bright and clear.

CROSS EXAMINATION.

(BY MR. HUGHES.)

Q. You climbed up on the cargo? A. Yes.

Q. And then you had to creep up to the port side, because it was listed?

A. I didn't go up on that account. I came up the lumber and went along until I saw one of my winch mates hurt, lying over the rail.

Q. That is not the reason you walked over to the port side? A. No.

Q. You went because one of the men were hurt?

A. Yes.

Q. Did you know beforehand that he was hurt?

A. No.

Q. You stopped and talked to him?

A. Yes; I heard him moaning.

Q. Did you help him back?

A. No. He did not want any help. He said he would stop there for a bit.

Q. So you went off?

A. I got orders to clear away the boats, and then I had to help.

Q. And you went back? A. I went along aft.

(Witness excused.)

WHEREUPON the hearing was adjourned sine die.
(Filed Dec. 10, 1912.)

Deposition of CHARLES P. M. JACK, taken on behalf of libelant, pursuant to stipulation herein, before Edward H. Carpenter, Notary Public, in the City of New York, on January 14-15, 1913.

NEW YORK, January 14, 1913.

2 o'clock P. M.

Appearances:

MESSRS. HUFFER, HAYDEN & HAMILTON, (by MR. WILLIAM H. HAYDEN) for libelant.

MESSRS. BOGLE, GRAVES, MERRITT & BOGLE (by MR. WILLIAM HENRY BOGLE) for respondent, claimant and cross-libelant.

It is hereby stipulated and agreed, by and between the parties hereto through their respective proctors, that the deposition of Charles P. M. Jack may be taken in behalf of the libelant herein before Edward H. Carpenter, a Notary Public, No. 27 William Street, in the City of New York, at the hour of 2 o'clock P. M., on the 14th day of January, 1913, and may be transcribed and read in evidence for all purposes, subject only to the objections made and entered at the time of taking the testimony.

It is also expressly stipulated and agreed that the testimony now taken may be transcribed by the said Edward H. Carpenter in typewriting, and that the signature of the witness is hereby waived.

CHARLES P. M. JACK, called on behalf of libelant, being duly sworn, testifies as follows:

DIRECT EXAMINATION by Mr. Hayden:

Q. Your full name, please. A. Charles P. M. Jack.

Q. Your age. A. Thirty-three.

Q. Your residence? A. St. George Hotel, Brooklyn, New York.

Q. Your business? A. Consulting engineer and ship surveyor.

Q. Have you ever been to sea? A. Yes.

Q. Please briefly outline what you have been doing in connection with sea-faring life and ships? A. About 17 years ago I started to serve an apprenticeship as a marine engineer; I served 5 years as such, and then went to sea as a sea-going engineer till such time as I obtained a chief engineer's certificate, and sailed for one voyage as chief engineer; after which I came ashore and went to Glasgow University and studied naval architecture. After that I worked in several shops in Glasgow as draftsman and designer, and then acted as assistant superintendent to Messrs. Thomas Dunlop & Sons for a short time, after which I came to New York and started

in business as a consulting engineer and ship surveyor. That is, I came to New York 8 years ago. During this 8 years I have been employed by a number of ship owners to act as surveyor and looking after damage and repairs.

Q. When did you say you came to New York? A. 8 years ago.

Q. Are you connected with any firm? A. Not directly.

Q. State the extent of your experience as a marine surveyor; that is, whether you have little to do or considerable to do. A. I have handled a great many cases; in fact, my time has been fully occupied for almost the entire 8 years, principally with damage work; in other words, vessels sustaining damage either by stranding, fire, or collision, or something of that nature.

Q. What is the nature of your work in connection with those damages? A. Holding survey, deciding what is necessary to repair the damage and seeing such repairs carried out satisfactorily.

Q. Did you have anything to do in connection with the repairs to the steamer Strathalbyn? A. I did.

Q. In January, 1912, and subsequent thereto. A. I did.

Q. Just state how that matter came up and what you did in connection with it? A. I was in Newport News, looking after some repairs to a steamer, and received a cable from Messrs. Bell & Sons instructing me to proceed to Tacoma.

Q. Washington? A. Washington—to look after repairs to their steamship Strathalbyn made necessary on account of a collision which the vessel had been in.

Q. And what did you do? A. As soon as possible I got back to New York and started for Tacoma, arriving there on Monday morning. I then got in touch with Messrs.—

Q. Do you remember what date that was? A. I think it was the 22nd of January.

Q. Then what did you do? A. On arrival at Tacoma I got in touch with the agents, Messrs. Dodwell & Co., and the captain of the Strathalbyn, and learned from them some particulars of what had occurred—of the accident that had occurred. The same forenoon I

proceeded on board the steamer Strathalbyn and had a general look around at the damage.

Q. When you had a general look around what was the condition of the ship and her cargo? A. The deck cargo had been discharged from the forward deck, and a part of the cargo had been discharged from No. 1 hold. To the best of my recollection, the entire cargo, or most of the cargo, had been discharged from No. 1 'tween decks. As a result of cargo having been removed from the forward end of the ship, the worst of the damage was then out of water and the vessel was practically making no water. After consultation with Captain Logan, representing the London Salvage Association, and after also consulting with the captain, it was decided that, the damage being so far out of water, another day's work or so on the forward end of the vessel would bring the damage far enough out of water to make it safe for the vessel to proceed to Victoria.

Q. Where was the vessel lying when you first saw her? A. She was lying at Milwaukee Dock.

Q. Tacoma? A. Tacoma.

Q. Did you talk with anyone else about the damage prior to her going to Victoria in the matter of repairing her? A. Oh, I expect I did. I don't really recall.

Q. Did you take the matter up with Dodwell & Co.? A. I think that probably in person—

Q. Did you take it up with Dodwell & Co.? A. Yes.

Q. Go ahead. You left off where you said that you had decided that by another day's work or so you could raise the damaged part to such an extent that it would be safe to go to Victoria. Now go ahead from that point. A. Captain Logan agreed to furnish a sea-worthy certificate, and further agreeing to proceed in the vessel himself on the voyage from Tacoma to Victoria, it was decided to clear the vessel and shift to Victoria. Meantime I communicated with the British Columbia Marine Railway Company and ascertained from them that they had all material necessary for effecting the repairs and a suitable wharf at which the discharging of the cargo and the repairs could proceed at one and the same time.

Q. Did you make any inquiries as to the accommodations on Puget Sound for the repairing of the vessel before you decided that she should go to Victoria? A. Yes. I talked it over with Captain Logan and any other people that I met and formed the opinion that Victoria seemed to be the most likely place to get the work expeditiously executed and at a reasonable figure.

Q. Why did Victoria seem to be the most likely place to get the work expeditiously executed? A. First of all, because there was a drydock handy to the repairers' yard; and, second, because the said drydock could take the vessel with a large proportion of her cargo on board; third, because there was a position at that yard by which the stem of the vessel could be placed right under the sheer legs and the remainder of the vessel be so moored that cargo barges could be brought along either side, so that the work of cutting adrift the wreckage and the discharging of the cargo could be going on at once.

Q. Do you remember when the vessel reached Victoria? A. It was towards the end of the week; I think it was Thursday of the week that started on January 22nd, Monday, January 22nd. Thursday or Friday, I am not sure which.

Q. What did you do with the vessel when she got to Victoria? A. She went immediately to Esquimalt, to the repairers' yard, and was set in position as I have already described, that is, with her stem under the sheer legs and her stern projecting out into the bay.

Q. State whether or not the repairing in that position and the unloading were conducted simultaneously. A. They were. When the last stick of lumber was out of her, that is, what were required to take out of her to bring her on an even enough keel to drydock, the upper work, or the wreckage above water, was then so far cut away that to get any more away required drydock, so that the two were practically finished at the same time. In other words, when the vessel was in trim for drydocking the wreckage above water was all cut away.

Q. Now just tell in your own way how you proceeded, step by step, until the vessel was finally taken

out of the dock and to be loaded again. A. That is, you mean from the time that she entered the drydock?

Q. Yes. A. When the vessel entered the drydock the dock was pumped and we found that the damage below water other than the broken frames was not very serious, with the exception of the lower end of the stem, which was badly bent at the upper end. When the vessel was dry in dock the workmen started to cut away the lower ends of the frames the upper ends of which were damaged, and to move these; also started to rig wooden frames, battens and wooden stem, in order to arrive at the correct shape of the forward part of the vessel, which had been practically destroyed. After these ribbands and battens were erected in position, the templets were lifted off the frames and the work of bending the new frames started. As soon as the new frames and reverse frames were shaped they were set in position and connected up to the battens. The new stem, as soon as it was ready, was set in position, and the work of relaying the decks and stringer plates and beams and shell plating proceeded. The work as far as possible below what was her draft when she came into drydock was pushed ahead as quickly as possible; and as soon as this lower work was completed the vessel was undocked and taken back to the position that she was in when first taken to Esquimalt. The cargo was then immediately brought alongside, and the loading proceeded at the after end of the vessel. As soon as the work which came into No. 1 hold was far enough advanced, the loading of the lumber in this hold was also started, and by the time all the lumber was loaded the repairs were so far advanced that the vessel could leave Esquimalt and proceed back to Tacoma. On arrival at Tacoma the lumber which had there been discharged was again re-loaded, and the few repairs still remaining to be effected were completed.

Q. State whether or not the repairs at Esquimalt were being made simultaneously with the loading of the cargo after the vessel was taken out of drydock?

A. Yes. The loading could commence immediately, because a considerable cargo had to be removed from the after end of the vessel in order to bring the stern or

bring the after end up, so that the vessel might be on a reasonably even keel when taken on blocks in drydock.

Q. Do you remember when she finished her repairs at Esquimalt? A. I think it was about the 10th of March; I wouldn't be sure of that date.

Q. Did you make a written survey of the damage? A. I did.

Q. (Paper shown witness.) Please state what that is. A. This is the survey report that I prepared, dated March 8th.

Q. Is that the survey report you just referred to as having made? A. Yes.

Q. Does that correctly state the damage to the hull of the vessel? A. Yes.

It is stipulated between counsel, for the purpose of avoiding incumbering the record, that the survey report made by Mr. Jack, and now identified as Libelant's Identification X2, may be subsequently introduced in evidence by either party, subject only to such objections as are made at this time.

Survey Report marked Libelant's Identification X², Jan. 14, 1913.

Q. Does this survey report, Identification X² state damage to any other part than the hull of the vessel? A. Yes; it has some machinery.

Q. State whether or not the damage that is shown by that survey report was actual damage done by this collision? A. It was actual damage either done by the collision or resulting from the collision. Machinery damage: that was in connection with pumping out the water which came into the hold after the collision; and the boilers, they were salted up, due to keeping steam after the collision and while shifting the vessel from one port to another. The condenser was opened up for examination, on account of the vessel having been on the mud and mud having thus got into the condenser. I think that is all.

Q. Were the damages shown in your report of survey just referred to repaired? A. Yes.

Q. Under whose supervision. A. Mine.

Q. Did you check over and keep track of the cost

of making those repairs? A. There were timekeepers employed to check over daily all the labor and material.

Q. What did you have to do in connection with the checking over of those repairs, if anything? A. After the repairs were pretty well ahead the timekeepers' statements and the repairers' statements and bills were carefully checked over and discussed, and where necessary corrected, by Captain Logan, representing the underwriters of the Strathalbyn, and Mr. Gardner, representing the underwriters of the Virginian, and myself.

Q. What was the result of that combined checking? A. That the bills were eventually corrected and approved as such by all three.

The parties hereto stipulate, with reference to the bills and vouchers for repairs, that they may be similarly introduced in evidence as the report of survey of Mr. Jack marked Identification X², the same being marked Libelant's Identification X³ (consisting of pages 1 to 7 inclusive), X⁴, X⁵, X⁶, X⁷, X⁸, X⁹, X¹⁰, and X¹¹.

Q. Have you looked at those vouchers, Libelant's Identification X² to X¹¹, inclusive? A. Yes.

Q. Are those the vouchers that you and Mr. Gardner and Mr. Logan checked over? A. Yes.

Q. And approved? A. Yes.

Q. I notice that Mr. Gardner approves the same subject to adjustment, surveyor for underwriters. Do you know what that means? A. That is the customary way for an underwriters' surveyor to approve a bill.

Q. What does that mean, if anything? A. It means that is subject to the adjuster's finding; that the bill is a matter for the underwriters.

Q. Does it have anything to do with the correctness of the amount of the bill? A. No.

Q. Mr. Jack, state generally whether or not the items contained in Libelant's Identification X³ to X¹¹, inclusive, were incurred in connection with repairing the damage to the Strathalbyn or repairing the results of the damage to the Strathalbyn by reason of the collision with the Virginian January 12th, 1912? A. All the work or supplies, or anything that is billed for any

of these bills that have been approved by me, was made necessary by the collision.

A paper is produced and marked Libelant's Identification X¹², Jan. 14, 1913.

Q. (Said paper shown witness.) Referring to Libelant's Identification X¹², being a bill rendered by yourself, dated March 10, 1912, for \$2,650, will you look at that, please, and state what it is for. A. For my services and expenses in connection with the repairs to damage made necessary by reason of the collision with the S/S Virginian.

Q. What have you got to say about that being the usual charge or otherwise? A. It is my customary charge.

Q. Have you been paid that amount? A. Yes.

Mr. Jack's bill lib. ident.x12, is offered in evidence and marked Libelant's Exhibit x12, Jan. 14, 1913.

BY MR. BOGLE:

Q. Mr. Jack, your bill for services was on the basis of \$25 a day from the time you left New York until you returned to New York, was it? A. That is right.

Q. How long were you in Victoria? A. I think from about the 25th of January until about the 10th or 11th of March.

Q. I notice that this voucher contains an item of \$550 for hotel expenses at Victoria etc. What is included in that besides the hotel bill proper? A. Well, such expenses as every-day expenses traveling from Victoria to Esquimalt, typewriting—no, I don't think there is any typewriting in that, but just ordinary expenses.

Q. I note that you have one item, "One trip to Tacoma and return to Victoria, \$25." What was that for? A. I went across to see Dodwell & Co. about something connected with the ship, but I don't just recall what it was.

Q. That does not represent traveling expense from Victoria to Tacoma and return, does it? A. Yes, and hotel—the expense of the entire trip.

Q. I notice you have an item of estimated expenses

to Tacoma, at Tacoma and return to New York, \$250.
A. Yes.

Q. Have you any itemized account that separates that and shows what it was for? A. No. The reason for doing that was this: that it was necessary to leave all the bills behind, and, as I could not then accurately tell what the total expense would be, I estimated it, and I might say that from my recollection the estimate was low.

BY MR. HAYDEN:

Q. Mr. Jack, were you present in Victoria any time when several gentlemen made measurements of the Strathalbyn? A. I was.

Q. Will you state who were present when those measurements were made? A. Captain Logan, Mr. Walker, Mr. Bogle, Mr. Hayden, Captain Crerar, and Mr. Purdie.

Q. Do you remember about what date that was? A. February 19th, I think.

Q. Do you remember what time we went down to the ship? A. During the forenoon. I think probably about—we left Victoria, I think, around 10 o'clock.

Q. What measurements were taken? A. Measurements were taken of the forward deck, that is, between the inside of the rail, the top of the bulwarks on either side, the length of the forward deck, the length of the forecastle, the heights of the different bridges, and the length of the light screens, the distance from the forward end of the light screen to the forward end of the bridge. In referring to light screens I refer to the light screens on the lower navigation bridge. Also measurements were taken of the depth of the block at the forward end of the light screens, and the distance between the iron lamp hangers, that is, the distance between the iron lamp hanger for the starboard light and the hanger for the port light. I think these were all the measurements that were taken.

Q. Did you make any memorandum of those measurements at that time? A. I did.

Q. Have you got that memorandum here. A. Yes.

Q. Will you please produce it?

Witness produces a paper—an envelope.

It is marked Libellant's Ident. X 13, Jan. 14, 1913.

Q. Will you tell the Court what distances you got between these different points that you have indicated—measurements that you have indicated? A. (Witness looking at envelope.) The distance between the inside of the bulwark rails: 6 feet forward of the forward break of the bridge—48 feet 7½ inches;

18 feet forward: 48 feet 6 inches;

The next measurement I can't make out, but I take it to be 12 feet further forward; that would be about 30 feet from the end of the bridge: 48 feet 2 inches;

The next, 45 feet from the end of the bridge: 47 feet 9 inches;

60 feet from the bridge: 47 feet;

72 feet from the end of the bridge: 46 feet 4 inches;

84 feet from the end of the bridge: 44 feet 9 inches;

96 feet from the end of the bridge: 42 feet 11 inches.

That was about 6 feet from the break of the forecastle—where the last breadth measurement was taken.

The next measurement I have is the height of the forecastle deck: 8 feet;

The next is the total length of the forward well deck: 101 feet 9 inches;

The next is the length of the forecastle from inside of stem: 39 feet;

The next is the beam at the after end of the fore-castle on the forecastle deck: 46 feet 2 inches;

The next thing I have is the distance between the iron lamp hangers of side lights: 46 feet 10 inches.

Then the length of side-light brackets: 3 feet 8½ inches.

Q. What do you mean by that? A. I mean the length of the side-light box.

The distance from the forward end of side-light box to the forward end of bridge: 11 inches. This measurement was taken to the bridge work immediately forward of the lamp screen, and not to the decking.

The distance from the forward break of the bridge to the after end of the mooring bitts: 8 feet 3 inches.

Then I have the height from the main deck to the upper bridge: 25 feet;

To the lower bridge: 15 feet 5;

And I have another measurement of 14 feet here, and I am not clear what it is, but it is apparently a measurement on the forward end of the bridge.

Then there is a height here; it says, "height of center light," 17 feet 1. I don't recall what that measurement was taken for, or really what the measurement is.

Q. Have you got a measurement there for the distance between the iron bracket and the light screen at the forward end of the bridge? A. Yes, I have. I missed that. 4 feet 2 inches.

Q. Referring now to the measurement of 46 feet 10 inches between the iron bracket from the port to the starboard light screens, please tell if there was any conversation about that, and, if so, what it was—how those measurements were taken. A. It was desired to find the distance between the port and starboard light, that is, the distance they were apart. The lamps were not on board, and it was stated that the lamps were in Tacoma. After discussion it was decided that the lamps could be measured, and, to get the actual distance between the lights, the best way to do would be to take a measurement from some point to which the lamps were directly attached; and the iron brackets carrying the lamps being the only such point, the measurements were taken between these iron brackets, there being a convenient hole in the bridge siding to enable the tape to be stretched directly from the one bracket to the other.

Q. Describe to what the light screens were fastened. A. The light screens were fastened to the sides of the bridge; that is, the staving that goes around the bridge between the decking and the rail.

Q. Describe that a little bit more in detail. I don't think the record will show clearly what you mean by it. A. The bridge was enclosed by a teak-wood rail, which extended around it about 3 feet from the deck, and the space between that rail and the deck was filled in with upright wood boarding suitably attached to the deck and with wood stanchions.

Q. It made a sort of board fence around the deck? A. Yes.

Q. Now, when you refer to the light screens being attached, to what do you mean they were attached?

A. To this board screen, as we call it.

Q. A wooden fence that went around. A. A wooden fence.

Q. Where was that hole located with respect to the iron light brackets in the light-screen boxes. A. It was placed immediately in line with it; that is, the position would come about in line with the screw on the lamp for fastening the lamp to the bracket. The hole was there for the purpose of setting up on to that screw after the lamp was in position.

Q. Do you know how far from the outer edge along the inboard side of the light screen the iron bracket set out? A. What do you mean by the inboard side of the light screen?

Q. I mean the side of the light screen that was fastened to the railing—the light screen board. How far the bracket set out from the light screen board. A. That is, the thickness of the board?

Q. No, I do not mean the thickness of the board; I mean the distance that the bracket would be from the inboard—inside—board of the light screen. A. I understand that you mean the distance that the iron bracket projected out past the inside of the light screen board; and I gauge that at about—oh, about an inch and a half.

Q. How thick was that iron bracket? A. I should judge about a quarter of an inch.

Q. How wide was it? A. About 2 inches, I think.

Q. I don't think you gave the distance, or, rather, the width of the block in the forward end of the screen. Do you know it? A. My notes don't show it, but I know that it is four and a half inches.

Q. Are those notes of yours in the same condition that they were in at the time you made them at Victoria?

A. They are, other than they are a good deal worse for wear; they have been carried in my pocket, and some of the things are not very clear.

Q. Has anything been changed about them in any way? A. Not to my knowledge, no.

Q. Are the measurements on there the same as they

were when you took them in Victoria? A. The same as they were when I took them in Victoria.

MR. HAYDEN: I offer in evidence the notes made by Mr. Jack, marked Libellant's X¹³.

The envelope is marked Libellant's Exhibit X¹³, Jan. 14, 1913.

Q. Did you notice anybody else making notes at the time this measurement was being made. A. Yes. Mr. Walker made notes, and Mr. Hayden made some notes; and I don't know whether Captain Logan made any notes or not—I know that he did not make them on the lower deck, I don't know whether he did on the bridge or not.

Q. After these measurements were made did you and Mr. Walker make any comparison of your notes? A. Yes.

Q. Just what took place between you? A. We read over the figures that we had each taken and compared them and agreed upon them.

Q. Did you make any measurement of 47 feet 7 inches? A. No. I don't think so.

Q. Did you hear any discussion of 47 feet 7 inches by Mr. Walker or anybody else? A. You mean on the bridge? On the bridge measurement?

Q. Yes. A. I remember some figuring being done to try and find out about approximately what the position of the lights would be, and I recall the measurement of $4\frac{1}{2}$ inches, that is, the depth of the blocks being added to the measurement that was taken across the light screens, and these two measurements, that is, the two $4\frac{1}{2}$ inches, one on each side, added to the 46 feet 10, would give 47 feet 7. I remember at the time thinking that that would not give it, because the iron brackets extended out a bit past the inside of the screen. That is, that a line stretched from the end of the wood blocks at the forward end of the light screen would not be $4\frac{1}{2}$ inches away from the iron lamp hangers. I therefore did not pay much attention to any estimating of the actual position of the light, but preferred to leave this until the lamps were produced, so that the actual distance between the iron brackets and the lamp wicks could be taken.

Q. Would the distance between the outside edges of the blocks of the forward end of the screens, that is, the starboard screen and the port screen, be more or less than 46 feet 10? A. It would be more than 46 feet 10.

Q. Was there any measurement made by Mr. Walker and yourself of the distance between the outside edge of the backboard of the light screens? A. You mean between the port and the starboard?

Q. Yes. A. No. We could not take that measurement.

Q. Why not? A. Because there was no hole on the bridge siding to allow the tape to pass through in way of that.

Q. Was there any hole to allow a tape being passed through on the forward side of the light screen? A. No. The only way in which that could have been taken accurately would have been to have cut a hole through the siding of the bridge, or it might have been taken approximately by putting a wood batten on and extending that line up to above the line of the rails so that a tape could have been stretched between these projections.

Q. Was that done? A. No.

Q. What arrangements were made, if any, relative to preparing a blue print or drawing showing these measurements that you know about personally? A. The chief draftsman of the repairers, that is, the B. C. Marine Co., prepared such a drawing—such a tracing and blue print; partly from figures obtained by himself, or, rather, the drawing was prepared by figures obtained by himself, and a number of the figures which had been obtained by the different surveyors and others were filled in.

Q. What arrangement was made between Mr. Logan, yourself and Mr. Walker, or between yourself and Mr. Logan, about the signing and furnishing of copies of a blue print of these measurements? A. I do not recall any special arrangement being made.

Q. Do you recall any arrangement being made whereby you promised to give to Mr. Walker a copy of the blue print? A. No, I don't.

Q. (Blue print shown witness.) I hand you Claimant's Identification 5-5, and ask you if you have ever seen that before. A. Yes. This is the blue print that was made from the tracing prepared by the draftsman of the B. C. Marine.

Q. Did you see the tracing before the blue print was made from it? A. I am not sure. I think probably I did.

Q. Did you put any marks or figures on that blue print? A. Yes. I put in some of the dimensions that had been taken at the survey in pencil, and asked the draftsman to have these inked in.

Q. I wish you would go ahead, right in your own way, and explain everything in detail in connection with the preparation of that blue print. A. In the first place, I asked the draftsman to prepare an outline showing the general layout of the vessel from the bridge forward; showing the sheer, the height of the rail, the height of the forecastle, the after end, and to put it all down to scale; and to prepare this from his own dimensions, that is, from dimensions obtained by himself; and that after he had this prepared to make a blue print of it, leaving out such dimensions as had been obtained by the surveyors and others; and that after he had this I would give him these dimensions to fill in. I stated that as we wished one actual record of these figures, I thought a blue print more reliable than a tracing. When he had this blue print ready I went over it and penciled in such dimensions as I had in my notes, and I think also showed him my notes to take them from, or, at least, read over my notes to him. The dimensions were then inked in by him; and a day or so afterwards I received the blue print, and checked the dimensions over, or, rather, the figures over, with Captain Logan; finding same in accordance with the notes, that is, apparently in accordance with the notes—although I know since that they were not—I signed it, and Captain Logan signed it. I then left it with Captain Logan, as he was going to see Mr. Walker, and asked him to submit it to Mr. Walker for his signature.

Q. You say you made some pencil measurements on the blue print. Are there any of those readable now?

A. Yes, there are some of them.

Q. When did you put those measurements on there? A. I put them on in Esquimault, in the B. C. Marine Company's drawing office.

Q. Will you please read such of those notations as are discernible? A. Here is one (indicating), 4 feet 2, which is a dimension from the forward end of the bridge to the center of the iron lamp-holder—"Cr. of iron lamp holder" is written on in my handwriting. Then here is "46 feet 10 from"—the next word I can't make out—"of iron lamp holder." That is written across the front of the lower navigation bridge.

Q. Did you examine that blue print? A. Yes.

Q. What have you got to say about its being accurate or inaccurate? A. Well, there is one error in it. That is, the 46 feet 10 has not been shown as it ought to have been, but has been shown as being between blocks and the forward end of the screen. That is, in place of the 46-foot 10 having been put in in accordance with the pencil note, it has been put in in a blank space which has been left for a dimension between the blocks and the forward end of the screens.

Q. How does the error show? A. How do you mean?

Q. How do you know that there is an error there? A. I know it from my notes.

Q. I mean from the appearance of that blue print? A. In the first place, the lines at the side, that is, the dimension lines—are apparently an extension of the wood blocks at the forward end of the light screen.

Q. What part of the wood blocks? A. The out-board edges. Whereas this line should have been an extension of the iron brackets which are for carrying the lamps.

Q. How did it happen that you certified to those measurements being correct? What system of checking? Just explain in detail how you checked the figures that were written there. A. Well, to the best of my recollection, the way they were checked was: Captain Logan and myself examined the drawing, and I called out what I had on my notes, and we checked up the actual figures from that. Of course, I had previously given

the draftsman the figures that I had on my notes, and these figures were inked in by him.

Q. Did you ever agree with Mr. Walker that the distance 46 feet 10 inches was the correct distance between the outside edge of the forward block in the port and the starboard light screen? A. I could not do that, because it was not.

Q. (Tracing shown witness.) I don't know whether you know anything about this tracing personally. Did you ever see that before at Esquimalt? A. Yes.

Q. Let us identify it, then. A. That is the tracing from which that blue print was taken—printed—I imagine.

Tracing marked Libelant's Identification X¹⁴, Jan. 14, 1913.

Q. This is the tracing that was prepared by the draftsman. A. Yes.

Q. Independently of the figures which you had given him? A. Yes.

Q. In referring to this tracing I am now referring to Libelant's Identification X¹⁴. Did you put any measurements or marks on that tracing? A. No, I don't think so.

Q. I wish you would be positive about it one way or the other. A. No, I did not.

Q. Were you present when Mr. Walker signed the blue print? A. I was not.

Q. I see here in the testimony that was taken in Seattle when Mr. Walker was testifying that, reading across the top of the blue print, it was read "46 feet 10 from between iron lamp holders." Will you look at that and see if you can make out that word now? A. No, I can't read that.

Q. Is it the word "between"? A. No; "from" something "of iron lamp holders." I should imagine it was neither "inside" or "outside" of iron lamp holders. I can't make it out.

Q. In making these measurements to ascertain the width between the lamps, do you remember who held the tape? A. I think Captain Logan and Mr. Purdie had the

tape most of the time. I believe the captain had the end of the tape some of the time too.

Q. Which end of the tape were you at? A. The measuring end.

Q. Do you remember whether or not the light screens were above the deck, that is, the chart-room deck? A. Yes. They were, I should imagine, about half the height of the bridge bulwark, you might call it.

Q. Did you ever decide with Mr. Logan and Mr. Walker that the blocks in the forward end of the light screens were the center of the lights? A. No. I remember some discussion about that. But, as it was not very easy to get that dimension, and as it was considered—Mr. Hayden, I think it was, suggested that the best way was to take it from the light brackets, and not bother with the screen at all—or the blocks, rather. I know it would have been rather difficult to get the distance between the port and starboard light screen block. We would have to rig up for it, and then we could not have been altogether sure of the projections, that is, the extension that we would have to make, being in like position.

Q. Do you remember whether the lights on the flying bridge were perpendicularly above the lights on the chartroom bridge or not? A. I could not say definitely, but to the best of my recollection they were. I should expect them to be.

Q. Mr. Jack, did you ever take any notes that were prepared by the draftsman of the B. C. Railway Company, who, I understand, made this drawing, back East with you—any notes and measurements of these lights or distances across the ship? A. I think I had some notes of his in connection with—not in connection with lights; in connection with drawings he prepared for me of the repairs as effected.

Q. But I mean in connection with these lights and measurements across the deck, &c. Did you ever take any of those measurements away with you? A. No.

Q. Did you ever take that tracing of the blue print back East with you? A. No.

Q. When I refer to that tracing I mean Libellant's Identification Exhibit X14 and Claimant's Identification

5-5, being the blue print with the measurements on it and the drawing? You never took those back East with you?

A. No.

Q. Did you and Mr. Walker have any discussion as to the molded depth of the vessel? A. Not to my recollection.

Q. Do you know what the molded depth of this vessel is? A. The molded depth?

Q. The molded breadth. A. Yes.

Q. Did you have any discussion with him as to the molded breadth? A. Yes.

Q. Do you know what the molded breadth is? A. 52 feet 2 inches.

Q. Right forward of the break of the house on the ship, where the rail connects with the break of the house, what is the shape of the top of the rail as you look at it? A. You mean the bulwark rail?

Q. Yes. A. It looks just the same as that bulwark rail is formed of a bar—of a bulb bar—which runs right along.

Q. How does it curve? A. And the bulb looks inward. You mean right—

Q. The break of the house? A. The connection to the house?

Q. Yes. A. Connected with the bracket.

Q. What is the shape of that bracket? A. It is a gusset bracket, triangular bracket, rounded off.

Q. With the rail and the bracket at the house, what would you say would be the width? A. It would be very hard to guess that. It would depend on what position on a strake you take it.

Q. I say right at the house. A. The bracket would probably be 12 to 14 inches deeper than from inside of the rail; that is, from the rail—the inside of the rail—to the inside toe of the bracket would probably be from 12 to 14 inches, probably more; possibly 18 inches.

Q. How far does that bracket extend forward on the rail? A. Perhaps 2 or 3 feet.

Q. Does it gradually come down from the 18 inches to the width of the rail? A. To the width of the rail.

Q. Have you got the drawings here that were prepared and that you carried away with you—prepared by

the draftsman for the repairs—and that you carried away with you? A. Yes.

Q. Will you let me see them, please?

Witness produces drawings.

Drawings marked Libellant's Identification X¹⁵, Jan. 14, 1913.

Q. Now referring to this drawing marked Libellant's Identification X¹⁵, just identify each figure that is on it, so that we can all understand it hereafter. A. This on the left-hand top corner here, "expansion of shell plating"—this shows the port and starboard side shell plating expanded, that is, straightened out as it would be if it were not curved. The new plates are shown hacked, the port side being doubly hacked.

Q. You mean? A. I mean by hacked lined in—sectioned.

Q. What are these double-curve lines? A. These show the bottom of the plates, or, rather, the lap of the plates.

Q. The length of the plate is the distance between each one of these double-curve lines? A. Yes. In other words, the double-curve line shows the end of a plate.

The figure which the witness has been just referring to is marked "A".

Q. Now tell us what the figure is just below the "A"—what that represents. A. This represents the fore-castle deck, or, in other words, a plan view of the fore-castle upper deck.

Q. Tell what those different marks are that are on there. A. This figure shows the stringer plates and the center plates, which were part of the construction of this deck, the remainder of the deck being wood. The wood was also extended over a part of the steel plates shown. These steel plates are marked in a similar manner to the figure above, showing which plates were renewed.

(Marked "B".)

Q. Now please tell us what the figure is in the right-hand upper corner. A. That is a plan view of the upper deck. That is, the first deck below the fore-castle deck.

Q. Describe it, please. A. This shows the plates

that were renewed. It also shows the new brackets, the new beams and new stringer clips.

The figure the witness has just been referring to is the figure "C".

Q. Describe the figure just below that. A. The figure immediately below that is a plan of the main deck, that is, right below the forecastle deck, and the second deck down from the forecastle deck, and shows the plates renewed, brackets renewed, beams renewed, shell clips and angles renewed.

(Marked with the figure "D".)

Q. Now refer to the one next lower down, the larger one. A. That is the upper stringer.

(Marked by the notary "E".)

Q. State what that represents. A. That is a plan view of the upper stringer, which is the first stringer below the main deck in way of the fore peak. This view only extends back as far as the collision bulkhead, which is represented by the line at the furthest end from the stem; it also shows the stringer plates renewed and the beams renewed.

Q. Now, the little figure furthest to the right. We might as well mark that at this time "F."

Same marked by the notary "F".

Q. Describe what that is. A. That is a plan view of the lower side stringer in the fore peak, which is the second stringer below the main deck, and shows new plates, new beam and bracket and new clips.

Q. The printing that is on there is descriptive of the different parts that have been replaced. For instance, where it says "new plates", have there been old plates taken out and new plates put in? A. Yes.

Q. Is all that is blocked in there new—been renewed? A. It is.

Q. On all of the figures? A. On all of them.

Q. Mr. Jack, did you ever consider, looking at the damage, what angle these vessels may have come together? A. Yes, I have.

MR. HAYDEN: Libelant offers in evidence Libelant's Identification X¹⁵.

Marked Libelant's Exhibit X¹⁵, Jan. 14, 1913.

Q. Now, Mr. Jack, will you, in your own way, tell

what you think was the angle that the vessels came together, and your reasons for so thinking? A. You want me to explain just how I think it came? A. Not only the angle, but the way they struck?

Q. Yes; everything in connection with the way they struck. A. My opinion is that the Virginian struck the Strathalbyn on the port side just about the root of the stem.

Q. Mr. Jack, I hand you some photographs here (photographs shown witness). If you desire to refer to them to make your evidence more clear, you can do so; and go ahead in your own way. A. That is, that the upper part of the stem of the Virginian struck the part of the stem of the Strathalbyn above the 29-foot mark, and went right through, carrying with it the stem of the Strathalbyn down to the 29-foot mark, and cutting through the decks and beams as well as the frames down to about the 29-foot mark.

Q. In connection with your testimony, Mr. Jack, we are assuming that the Strathalbyn had a list to starboard of about 6 degrees, and the Virginian was upright. A. From the look of the damage, it would appear that the stem of the Virginian carried right through in line with the forecastle deck of the Strathalbyn to the 5th beam from forward; these beams being spaced about 4 feet apart, with the exception of the first beam, which is 2 feet from the stem. At this 5th beam from forward the direction of the stem seems to have cleared the beams of the Strathalbyn, and the damage abaft that seems to have been caused by the tearing due to the wreckage of the Strathalbyn caught on the stem of the Virginian. I therefore gauge that the direction in which the stem and the whole Virginian was traveling was from slightly abaft the Strathalbyn's stem on the port side to the end of the 5th beam from forward, that is, the starboard end of this beam. This direction is about $3\frac{1}{2}$ points out of the center, or away from the direction of the keel of the Strathalbyn. That is to say, that the Virginian cut in two the Strathalbyn from a position about $3\frac{1}{2}$ points on her port bow, and that the actual position which the center line of the two vessels had to each other at the time of the collision and while they were together

was about $3\frac{1}{2}$ points; the plating on the port bow of the Strathalbyn being set in by the fullness of the bow of the Virginian. As she proceeded the Virginian would seem to have made a direct course from the time of cutting into the bow of the Strathalbyn on the port side until she left it on the starboard side. The appearance of the lower part of the stem, that is, below the 29-foot mark, would seem to indicate that the stem of the Virginian did not touch the stem of the Strathalbyn, and that the lower part of the stem of the Strathalbyn was not touching until after the stem of the Virginian had passed that point, and the fullness of the bow of the Virginian set the plating over to port as well as the stem, that is, the stem just below the 29-foot mark.

Q. Do you refer to photographs to fully explain this? A. I would like to refer to this photograph here (indicating one of the photographs produced).

Said photograph is offered in evidence and marked Libellant's Exhibit X¹⁶ Jan. 14, 1913.

Witness: This photograph (indicating Libellant's Exhibit X¹⁶), showing the fore peak bulkhead and the upper deck (which is marked on the tracing X¹⁵, figure "C"), also shows the first and second beam forward of this bulkhead. The second beam forward of the bulkhead has a sharp notch cut in it; in fact, the flange of the beam is broken through, and the beam is very sharply bent aft. This notch comes just at the end of the bracket, which I should judge is about 18 inches from the frames; that is, from the outboard edge of the frames. The next beam from forward, that is, the first beam forward of the collision bulkhead, is notched in about the same position and set aft in about the same way. In my opinion, this was caused by the stem of the Virginian striking these beams at that point. This is also apparent from the way the deck plating and the wood deck are cut away in line, the steel deck being afterwards crumpled back by the fullness of the bow as it came on. The top corner of the bulkhead, that is, the collision bulkhead, is sharply set aft and crumpled, apparently caused by the stem striking it there after leaving the two beams already referred to. The ends of the wood cargo battens, which are attached to the frames in No. 1 hold, are seen in

this photograph, the ends being splintered, and the frames in way broken off; and this would seem to indicate that the stem at this point was into a depth of the depth of the frames. The course of the stem as seen from this photograph would therefore seem to be a line about 18 inches from the end of beams Nos. 1 and 2 forward of the collision bulkhead on the main deck to the frame, or the depth of the frame, just immediately abaft the collision bulkhead. That would be frame No. 10 from forward.

I would like to refer to this photograph also (witness indicating another of the photographs).

Said photograph offered in evidence and marked Libellant's Exhibit X¹⁷, Jan. 14, 1913.

Witness—This photograph, Exhibit X¹⁷, seems to show the top corner of the collision bulkhead on the starboard side, and the damage immediately abaft of that; it also shows the upper deck plating curled, lying on the first beam abaft the collision bulkhead. The frame in way of this beam does not appear to have been touched by the stem of the *Virginian*. This would therefore appear to be the point on the main deck at which the stem of the *Virginian* cleared the frames of the *Strathalbyn*.

MR. BOGLE: How far is that abaft the stem of the *Strathalbyn*?

Witness—That is abaft the stem of the *Strathalbyn* (referring to X¹⁵, the figure "C"), which shows the main deck, the collision bulkhead as in line with the 5th beam. The beam that I have just referred to is beam No. 6.

MR. BOGLE: Is the bulkhead on the 5th or 6th beam?

Witness—The bulkhead is on the 5th beam. That is, about 22 feet, roughly, from the stem. That is calculated by the distance the beams are apart, which is about 4 feet.

MR. BOGLE: That is, the stem of the *Virginian* cleared the frame of the *Strathalbyn* at a point approximately of 22 feet from the *Strathalbyn's* stem?

Witness—That is right. That is, in line with the main deck. Above that she did not clear at that point—I should say above that she would have appeared not to

have cleared—on the forecastle deck she appears not to have cleared for other 4 feet, in other words, other two frames between. The appearance of the plating, as shown in this photograph, Exhibit X¹⁷—the plating is ripped off from the second frame abaft the collision bulkhead back to three frames abaft that, and is not crumpled, but seems to have been directly torn off; that is, the stem of the *Virginian*, being caught by the crumpled and wrecked plating, had torn the plating from these three frames. The appearance of the shell plating at the extreme left of this photograph, in which the stem bar can be seen attached, is uncrumpled. This is the starboard plating, and is not crumpled for a distance of, I should estimate, about 5 feet; showing that the stem of the *Virginian* must have entered on the port side and cut in clear of this plating without crumpling it. In other words, cutting away all the attachments holding this plating and leaving it clear without crumpling it. The stem, falling on its course, gradually came out until it got in line with the side plating, and then the crumpling commenced.

Q. What part of that photograph are you just referring to, Mr. Jack? A. I am referring to that (indicating).

Witness marks same with an arrow.

Q. Did you say that a part of the stem showed in that? A. Yes, the stem shows for almost two breadths of plating.

Q. Will you please identify that? A. Do you want me to mark the stem?

Q. Yes. A. I will put an arrow to the stem.

Q. Just take a pen and mark it, if you will.

Witness marks same with an arrow in ink.

Q. Will you write "stem" up at the top of that last arrow you made? A. Yes. "Stem bar"?

Q. Yes. A. Yes.

Witness writes "stem bar".

ADJOURNED till Wednesday, January 15th, 1913, at 10 o'clock A. M.

New York, January 15th, 1913.

10 o'clock A. M.

Met pursuant to adjournment.

Present: Mr. Hayden; Mr. Bogle.

CHARLES P. M. JACK'S DIRECT EXAMINATION

Continued by Mr. Hayden:

Witness—I would like to refer to this photograph.
(Witness indicating another of said photographs.)

Said photograph is offered in evidence and marked Libelant's Exhibit X¹⁸, Jan. 15, 1913.

Witness—From this photograph, X¹⁸, the plating on the first, second, third, and fourth strakes, counting from the upper strake, is seen cut away just at a point between the hawse pipe and the stem, that is, on the port side.

I would also like to refer to Exhibit X¹⁵, Figure "B". May I put a pencil on this?

Q. Certainly. A. (Witness using rule and pencil.) That is about the position of the center of the hawse pipe.

Q. Carry it forward, please, with an arrow and mark it.

Witness does so.

Q. Mark it "center of hawse pipe" there.

Witness does so.

Witness—That position of the hawse pipe is shown on Figure "A", that is, the outer end is shown on Figure "A", and the position of the inboard end is shown on Figure "B", and is clearly marked. This extension that I have made shows the position of the center of the hawse pipe at the outboard end.

Q. Which corresponds with what on Figure "A"?

A. Which corresponds with its position in Figure "A".

Q. Mark it please.

Witness does so.

Witness—I mark this with a line and an arrow, and write on it "hawse pipe."

I have another drawing which shows this. (Indicating.)

Q. What is that drawing? A. This is the repairers' sketch of the hawse pipe casting.

Said sketch is offered in evidence and marked Exhibit X¹⁹, Jan. 15, 1913.

Witness—This drawing, X¹⁹, shows the diameter of the hawse pipe to be 21 inches. It shows the size of the

oval end, that is, the outboard end outside the flange, to be 4 feet and 3 feet; that is, the long way of the oval is 4 feet and the short 3. The breadth of the flange is 6 inches at the top and 8 inches at the bottom.

Q. What do you mean by the flange? A. The flange here (indicating), I mean by the flange the lip at the outer end of the pipe; that is, where the pipe casting is turned over to connect to the shell plating.

From the scaling of the shell plating, as shown here, the hole through the shell plating would seem to have been about 2 feet 4 inches, that is, perpendicularly.

Q. What is the scale of Exhibit X¹⁹? A 1½ inch to the foot. The size of the hole—the other way is not shown, but from the top right-hand figure it would appear to be about 2 feet. That would give the pipe 3 inches clearance, as the pipe is 21 inches in diameter.

I would like to refer back to this X¹⁵, Figure "B". The scale of this is ¼ inch to the foot. The distance from the inside end of the stem to the center of the hawse pipe, that is, measuring along the plating, is about ¾ of an inch—in other words, 3 feet. Half the diameter of the hawse pipe hole would reduce this by 1 foot, which would leave 2 feet from the inside edge of the stem to the forward edge of the hawse pipe hole.

I would like to refer back to Exhibit X¹⁸. In this photograph it will be seen that the outboard end of the hawse pipe comes a little above the line of the main deck. It will be seen that the plating at the forward end of the hawse pipe hole, while torn, is not broken off, and the mark of the cut seems to have been between the stem and this hawse pipe hole at this point, tapering down from there to the 29-foot mark, at which point the two stems appear to have cleared. The shell plating immediately in way of this port hawse pipe seems to have been set bodily in, in other words, crushed in; particularly the plating on the upper strakes. The lower strakes are not quite so much set in. In my opinion, these plates were set in by the fullness of the bow of the *Virginian* after the stem had cut its way in. This fullness seems to have carried right through, crushing and turning up the wood deck and bending the deck beams aft, particu-

larly on the forecastle deck, and a little less so on the upper deck, and still less on the main deck.

Referring to Exhibit X¹⁶, the plating, as shown, on which the stem figure marks are, seems to have been torn right down and not to have been cut. The deck plating, that is, the main deck plating, as shown here, seems to have been cut along and curled back, and would seem to indicate that the stem of the Virginian cut right along through the frames in way of this deck plating and did not extend far into the deck plating, as the beam ends can be seen intact, although very much bent aft, the bending aft presumably being done by the fullness of the bow. It will be noted that the forward beam bent much further in than the deck plating, and would seem to indicate that the Virginian's bow plating had given in way of this steel deck, but had held in way of the beams, thus forcing the beams further in than the deck plating.

Q. Will you please mark the beam which you are referring to and the plating with an arrow? So that the identification marks can be distinguished in your testimony?

Witness does so on Exhibit X¹⁶.

Q. How do you identify them? I have marked with an arrow and put at the end "line beam," and marked another line with an arrow and at the end put on "deck plating."

I think that is all.

Q. Will you please take the photographs and indicate on this X¹⁸? You refer to strakes. Indicate what you mean by strakes by drawing arrows out in front of them, and mark them first strake, second strake, third strake.

Witness does so.

Witness—I have marked these with a line and an arrow about the center of each strake.

Q. And what do you mean by a strake? A. A line of plating running fore and aft.

Q. Will you take all of the photographs, please, and mark on them the different decks which you have referred to as far as they appear in the photographs, identifying the decks by some appropriate words?

Witness does so.

Witness—I have drawn a line and an arrow, referring to Exhibit X¹⁷, pointing to the upper deck at only point that I can see. The deck immediately above this is the forecastle deck, and that is the upper deck of all at this section.

Q. Can you see the main deck on this photograph?

A. No, you cannot see the main deck on this photograph.

Referring to Exhibit X¹⁸, I put a line and an arrow and mark "forecastle deck." I also put a line and an arrow and have marked here "upper deck." The other decks are not apparent in this photograph.

Referring to Exhibit X¹⁶, I have put a line and an arrow and marked "upper deck." I have also put a line and an arrow and marked "main deck."

Q. You referred to the main deck plating in one of those photographs? A. Yes.

Q. Will you please mark that? A. The arrow points directly to the main deck plating, which has at the end an arrow and line and "main deck."

Q. On this last exhibit you are referring to? A. On this Exhibit X¹⁶.

Q. Will you please mark on that X¹⁶ the collision bulkhead you have referred to?

Witness does so.

Witness—I have written it on the plating of the bulkhead.

Q. Please refer to and indicate the bent beams that you have testified about. Identify them. A. Referring to Exhibit X¹⁶—I would rather letter these beams, because there would be too much writing on this photograph.

Q. Identify them in any way you want to.

Witness marks on Exhibit X¹⁶.

Witness—I have marked the first beam forward of the collision bulkhead "A", that is, upper deck beam; and the second beam forward of the bulkhead "B". I find that there is another beam here, which I had not noted before, and I mark this third beam from forward "E". What appears to be the first beam forward of the collision bulkhead on the main deck I have marked "C", and what would appear to be the third beam forward of the

main deck I have marked "D"; I notice there seems to be a beam in between, which is not very distinct in this photograph.

Q. Will you please put an "X" at the point where the bend comes in beams "A" and "B"? I understood you to say that they were sharply bent back. I want to get the point where they were bent back; not the bent point where they were cut, but the point where they were bent back.

Witness does so.

Q. And the same on the beam that you have marked "E". A. "E" beam, as well as being bent back, is bent very considerably down, and it would be difficult—in fact, it is bent in so many ways that it would be difficult to put an "X" at any one bend.

Q. Then please indicate where the cutting into the beams appears by the stem of the Virginian?

Witness does so.

Witness—I indicate it with a large arrow.

Q. Mark those arrows "Z" for further identification.

Witness does so.

Q. You have referred to the bent stem. Will you please indicate that in some way? The stem that is bent below the 29-foot mark? A. You cannot see the stem itself in this photograph, but you can see the position of it. I will indicate with an arrow the top of the plating in way of the stem which is not broken away from the stem. That is, about the 29-foot mark. I will mark this with an "O".

Witness does so.

Q. You spoke about a tear in the plating below the 29-foot mark in the bow. Will you please indicate that tear?

Witness draws line and arrow and marks it "T".

Q. Will you also mark the cargo battens? Just write "batten" on them.

Witness does so.

Q. What is this longitudinal object which seems to run through the picture? A. That is the chain pipe for the anchor cable running down from the after end of the windlass to the chain locker.

Q. Mark it "chain pipe," will you, please?

Witness does so.

Witness—I have written on top of the pipe "chain pipe."

I would like to say that on Exhibit X¹⁶, on the third beam forward of the collision bulkhead, there is also a notch, which is very close to the starboard end of this beam, and seems to have been done by the stem striking this beam. I should estimate that this is about 18 inches from the outboard end of the beam bracket. This is the bracket that connects the beam to the frames of the vessel. This notch would therefore be about not more than 2 feet from the shell plating in way of this beam. The main deck beams, that is, the deck below the one I have just referred to, do not seem to have been notched into at all, but are merely bent aft and do not appear to have been touched by the stem of the Virginian.

Q. Will you please indicate where the cargo battens are, referring to Exhibit X¹⁷?

Witness does so.

Witness—I have pointed to three cargo battens with arrows, and have written on the side of the photograph "cargo batten."

Q. Will you please identify the beams and decking on that photograph and other matters to which you have testified? A. Referring to Exhibit X¹⁷, I will mark the upper end of the collision bulkhead with a "C". I might in passing say that it will be noted from this photograph that this plating is intact, although badly bent.

Q. What plating? A. The plating of the upper starboard corner of the collision bulkhead. It has been torn away from the frames. I mark the frame on the bulkhead "F¹." The first frame abaft the bulkhead is missing. I mark the second frame abaft the bulkhead "F³," and the reverse frame attached to this frame I mark "RF³." The third frame abaft the collision bulkhead I mark "F⁴," and the fourth frame "F⁵."

The first beam abaft the collision bulkhead, that is, the first upper deck beam, I mark "B¹;" and the second one I mark "B²." I would like to here point out that frame "F³" and frame "F⁵" are both connected to beams, and that there is no beam in way of frame 2 or frame 4,

frame 2 having been entirely carried away down as far as this photograph shows, and the upper end of frame 4 only showing. It would seem to indicate that these frames had been torn away with the plating, and that frames F³ and F⁵ were not broken away on account of the extra strength given them by their attachment to beams B¹ and B².

The crumpled upper deck plating I have marked "D".

I have not referred to the forecastle deck beams, and I now mark them "FB¹" and "FB²." FB¹ seems to be broken off about a foot to 18 inches from the bracket at the starboard end. FB² seems to be broken off much further in, and is sharply bent, and would appear to have been bent right back before breaking off.

On this Exhibit X¹⁷ I have an arrow pointing to the upper end of the stem bar, and have marked this "S". I have put an arrow pointing to the starboard plating which is still attached to this part of the stem, and have marked this "PS", meaning plating starboard.

I have put an arrow pointing to the port plating attached to this piece of stem and marked it "PP". This shows the inside of this plating, not the outside. At the head of this piece of stem there is a white mark, which is apparently the white strip which is shown at the foot of the plating marked "Strake 1" on Exhibit X¹⁸, and which is carried right around the vessel.

On Exhibit X¹⁷, from the stem marked "S" and stem plating marked "PS", it is seen that the plating is broken off almost at the root of the stem bar. I am referring now to the starboard plating.

Q. Will you refer to photograph X¹⁸ and indicate where in your opinion the stem of the Virginian struck the Strathalbyn? A. To do this I would require to list the photograph or angle it to show the vessel with a list.

Q. Did she strike forward of the hawse pipe, in your opinion? A. Yes. But I would much rather show this. But it would be very difficult to indicate from that photograph where it is. You see, if we put a line on top of this (indicating), the plating is not in the position it was in when the stem was there; that is, the Virginian's

stem would appear to be much further in than it actually was if we put it on top of that.

Q. Then refer to your Exhibit X¹⁵, please, the drawing, and indicate on the various figures, such figures as you think will best show it, where the Virginian's stem entered the bow of the Strathalbyn, and where it comes out, and the line of damage? A. You want the course of the stem of the Virginian as I think it went on each of these decks?

Q. Yes. A. I mark on Figure "C"—

Q. That is what deck? A. This is the upper deck, I mark with an arrow the point at which I think the stem of the Virginian entered—I mark that "EN".

Q. I mark with an arrow and the letter "L" the point at which I think the Virginian's stem cleared the frames.

Q. Then, if you can by referring to those photographs, give us the direction showing on the Exhibit X¹⁵ the same relative points of contact on the beams that are shown in the various photographs that you have referred to. A. Referring to Exhibit X¹⁶, I will mark on Exhibit X¹⁵, Figure "C", beams "A", "B" and "E".

Q. Make them correspond in the lettering too, will you? A. Yes.

Witness does so.

Q. Describe what you have done there. A. I have marked on top of the dotted lines which show the beams, "A", "B", "E".

Q. Also mark, please, on those respective beams, where the notches appear (indicating Exhibit X¹⁵), and mark them the same as you have in the photograph X¹⁶.

Witness does so.

Witness—I have marked them with an arrow and "Z".

Q. Will you mark the beam that shows the position of the collision bulkhead on Figure "C" on Exhibit X¹⁵? Mark it "collision bulkhead". A. I will mark this "bulkhead line," as the bulkhead does not extend above this deck.

Q. Can you indicate on these beams the point at which they seem to be bent back, and also on the port bow the point at which the plating on this deck seems to

have been bent back from? A. It would be very difficult to put that in accurately.

Q. As you remember it. A. I can put in as my eyes see it on this photograph (indicating Exhibit X¹⁶).

Q. Mark it with an "X", the same as you have on the photograph X¹⁵.

Witness does so.

Witness—I have put an "X" on beams "A" and "B" at the point at which I think they are bent as shown in the photograph.

Q. What became of this frame extending right across the bow—the first frame aft from the stem?

A. I think it is probably in the wreckage, but it is not shown on the photograph.

Q. Was it carried away? A. Yes, it appears to have been. But it may be in behind the plating which is curled over. That beam is a very sharp one.

Q. Now will you indicate on the next deck below the deck represented by Figure C on X¹⁵ the same course?

A. Witness does so.

A. I have marked the point "EN" at which I think the stem of the Virginian entered.

Q. That is on what figure on Exhibit X¹⁵? A. "D". The stem would appear to have cleared all the frames in line with this deck, with the exception possibly of frames which I mark "F²" and "F³." The stem seems to have cleared just abaft frame F³, and the plating abaft that appears to have been torn off. That is, that the stem of the Virginian was not behind this plate. That is apparent by the appearance of the frame on the fore peak bulkhead, which can be seen to be almost intact up nearly to the main deck line, that is, the deck above the one shown on Figure D. The photograph I refer to is Exhibit X¹⁶.

Q. Is there any damage shown in the cutting or tearing of the plates—damage to the beams, to the decks, or parts of the vessel below that deck represented by that Figure "D" on Exhibit X¹⁵? A. Yes. There is damage to the stringer plate on the first stringer below that deck. But this was principally caused by the stem being set over to port and crumpling these plates. The side and frames were also set in between the stem and

the fore peak bulkhead in line with this upper stringer, as shown on Figure E.

Q. Where was that fore peak bulkhead? A. I will mark it "FP bulkhead."

Witness does so.

Q. How far up does that extend? A. That extends up to the upper deck.

Q. Now, Mr. Jack, I wish you would put the distances from the stem back to the first beam &c. on the decks and drawings indicated by C, D, E and F. A. The distance between the beams is approximately 4 feet.

Q. What is the distance between the root of the stem and the first beam aft of it? A. About 2 feet. I have marked on Exhibit X¹⁵, Figure C, about 4 feet, and have shown this in between the line of each beam, that is, up to the beam just abaft the bulkhead line.

Q. Now please tell us what the width of the ship is on the deck indicated by C in Exhibit X¹⁵ at the bulkhead and forward, across the different beams A. The bulkhead beam is 24 feet 8 inches, that is, from the outside shell plating on the port side to the outside shell plating on the starboard side.

Q. Give us the distance of the width of the ship on the next beam forward, marked on the drawing as "A". A. 20 feet.

Q. And the next one forward, marked on the drawing B. A. 14 feet 9.

Q. The next one forward, marked on the drawing as E. A. 9 feet 4 inches.

Q. And the next one forward—the last beam towards the stem. A. 3 feet 6 inches.

Q. Now, referring to the diagram D on Exhibit X¹⁵, give me the distance across the ship on the beam marked F³. A. 13 feet 5 inches.

Q. And the next forward of that, marked F²? A. 8 feet 2.

Q. And the next one forward of that, marked EN. A. 3 feet.

Q. Now, Mr. Jack, referring to the drawing marked B on Exhibit X¹⁵, please show on that drawing the point of contact and line of strike of the Virginian as she was entering the Strathalbyn. A. I mark this "EN."

Witness does so.

Q. And what have you marked there? A. I have marked there "L."

Q. And what does "EN" stand for? A. "EN" stands for the point at which I think the stem of the Virginian entered, and "L" represents the point at which I think it cleared the beams, as shown in photographs Exhibits X¹⁸ and X¹⁷. That frame No. F⁵ was not broken away at the head, that is, in line with this forecastle deck.

Q. You might mark F⁵ on the drawing B on exhibit X¹⁵ to show the corresponding position of F⁵ in photograph X¹⁷.

Witness does so.

Witness—I have marked this with an arrow and a line with the figures "F⁵." The frame itself is not shown on this drawing, but the position of it is indicated by the dotted line running right across the ship, which is the line of the beam, and the frame comes in line with the beam.

Q. On account of the upper part of Figure B on Exhibit X¹⁵ being cut away, are you able to give the width of the ship from this line (my finger is on a line run through the stem through apparently the center of the picture) to the side of the ship? A. Yes, I can give you that.

Q. All right. Then give us the breadths of the ship on the beams, commencing with F⁵ forward on the Figure B, which I understand is the forecastle deck line. A. Yes. The breadth of the vessel on line with the beam which is in the line of the frame F⁵ is 38 feet 10 inches.

On the next beam forward from that the breadth is 36 feet.

On the next beam, 32 feet.

On the next beam, 27 feet.

On the next beam, 21 feet.

On the next beam, 13 feet 6 inches.

And on the next beam, which is the forward beam of all, 4 feet 10 inches.

Q. I don't think we got the distances across on Figures E and F. Will you please tell us what they are?

A. This is the breadth in line with the fore peak bulk-head, 19 feet 9 inches.

Q. That is on Figure E? A. Figure E. In line with the next beam forward of that, 16 feet.

In line with the next beam forward of that, 12 feet.

In line with the next beam forward of that, 7 feet 3 inches.

And the next beam, which is the forward beam of all, is 2 feet 9 inches.

Q. Now give us the distances as shown on Figure F. A. In line with the third beam from forward, 11 feet.

On the second beam from forward, 6 feet 9.

On the first beam from forward, 2 feet 6.

Q. Are you able to tell by your drawings, or do you know, the height between the different sections as shown on this Exhibit X¹⁵? A. No, I cannot give it accurately from this; but they are, roughly, about 8 feet apart. They are shown on the blue print, Claimant's Identification 5-5. The distance between the forecastle deck and the upper deck, as shown on this blue print, is 7 feet 10 $\frac{1}{4}$ inches.

Q. And that is between what figures on Exhibit X¹⁵? A. That is between the Figure B and Figure C; the distance between C and D would not probably exceed this.

Q. Can you tell, by taking the strakes of plating, referring to the photograph Exhibit X¹⁶, the distance between the upper deck and the next below it—the main deck? A. No.

Q. Referring now to drawings B, C, D, E and F, on Exhibit X¹⁵, are the beams on each of those drawings perpendicularly above the one below? A. Yes.

Q. Do you think of anything else, Mr. Jack, that you want to say, in connection with this matter, that has not been gone into yet, to indicate the reasons for your opinion about the angle of contact and the direction of the blow? A. I don't think so.

Q. Mr. Jack, assuming that the Virginian is a vessel 492 feet long, 58 feet 3 inches beam, 31 feet 9 inches depth, with a net tonnage of 5,077 and a gross of 7,914, with a carrying capacity of 11,000 tons, with approxi-

mately 2,000 tons of cargo aboard of her, entering the bow of the Strathalbyn as you have indicated, piercing through the same in the directions you have indicated, and the vessels being together at the most but a few seconds, what is your opinion as to the collision altering the course or direction of the Virginian? A. You mean altering the line of the Virginian's keel, say?

Q. From the time it would come in contact with the Strathalbyn till it would pass out at the point you have indicated. A. Well, I don't think it is conceivable that there should be any appreciable alteration in the course in a short period of time such as a few seconds; and to make a perceptible distance in a course of a vessel 490 feet long would mean to shift either extremity, that is, either the bow or the stern, quite a distance; that is, that in 400 feet a difference of a point is quite a lot; it would mean the pushing over of the entire forward end a great many feet; and I don't think it is conceivable that a large mass such as you represent the Virginian to be, say with her cargo and the weight of the ship displacing possibly 7,000 or 8,000 tons, should have its direction changed perceptibly in a short period of time; that is, anything under a minute or half a minute. I judge that the actual time expired between the time that the stem of the Virginian entered the Strathalbyn and the time when she cleared, or when she finished the cut, could not be more than a second or, at the outside, two.

(Recess.)

CROSS EXAMINATION BY MR. BOGLE.

Q. Mr. Jack, referring to Exhibit X¹⁵, Figure D, you have marked the point at which you think the stem of the Virginian entered the hull of the Strathalbyn, designated by "EN." Will you kindly mark where in your opinion the stem of the Virginian left the frame of the Strathalbyn on that deck? A. I think in my previous testimony I have stated that in my opinion it cut right along just inside of that plate and left about the third beam from forward, or between the third and fourth beam from forward.

Q. What deck does Figure D represent? A. "D" represents the main deck, or the third deck from the fore-castle deck—the third deck from top.

Q. Then on that deck the stem of the Virginian entered the hull of the Strathalbyn on the starboard side of the Strathalbyn? A. That is my opinion.

Q. About how far abaft the stem? A. May I refer to these? (Indicating photographs.)

Q. Anything that you want to refresh your recollection from while you are giving your evidence about it. A. My opinion is that the stem of the Virginian just cleared the stem of the Strathalbyn and took the side plating of the Strathalbyn about 2 to 3 feet abaft the after end of the stem.

Q. What is the depth of the main deck, Figure D, in Exhibit X¹⁵? I mean what water-line would it represent? A. About the 29-foot water line.

Q. The stem and bows of the two vessels below that line passed starboard to starboard, did they not? A. Yes.

Q. How far above this main deck did the stem of the two vessels meet head on? A. I should judge 2 or 3 feet above; that is, above the 29-foot mark.

Q. And that would make it about the 31st or 32nd foot line? A. I should judge between the 30th and 31st foot mark.

Q. Of the Strathalbyn? A. Of the Strathalbyn.

Q. How much of the bow of the Strathalbyn was there above that line? A. I refer to Exhibit X¹⁵, Figure A. It is shown here that the length from the stem head, that is, the topmost part of the stem, down to the 14-foot water-line of the draft mark, was about 34 feet 3 inches.

Q. State what would be the distance from the upper deck to the 31-foot line, at which in your opinion the stems of the two vessels crossed. A. It would be 17 feet above the 14-foot mark.

Q. Just give it in definite figures. I repeat the question: State what would be the distance from the upper deck to the 31-foot line, at which in your opinion the stems of the two vessels crossed. A. The upper deck?

Q. That is the top deck, isn't it? A. Yes, that is the top deck.

Q. From the upper deck, or the top deck, down to the point where the stems of the two vessels crossed. A. By top deck you mean the forecastle deck?

Q. I mean the upper deck. A. The forecastle deck?

Q. The uppermost deck; I don't know what you call it. A. Yes, the uppermost deck, the forecastle deck. From this drawing I figure the distance from the forecastle deck to the 31-foot mark to be about 17 feet.

Q. Was there any damage to the hull of the Strathalbyn below the 29-foot mark, or below the main deck? A. Below the 29-foot mark the stem was set over to port, and the plating in way, particularly in way of the 29-foot mark, and down to perhaps about the 14- or 15-foot mark, was crumpled.

Q. And below the 14-foot mark was there any damage to the hull of the Strathalbyn? A. Very little. The plating might have been slightly unfair.

Q. Was it scraped on the starboard side? A. No, I don't recall it being scraped.

Q. If, as a matter of fact, the hulls of the two ships scraped together below that line, would it create any damage or not? A. No. I don't think they had, because the rounding in of the bows of both steamers had commenced about that point. The cut-away of the forefoot of the Strathalbyn is shown in this tracing. It seems to commence about the 14-foot mark.

Q. What is the extent of the overhang of the forecastle deck with respect to the main deck? A. In respect to the deck immediately below it or to the main deck?

Q. To the main deck; to the 29th foot. A. That is, to the second deck below?

Q. Yes. What is the forward overhang? I mean at the bow. A. Is there any particular place that you would have it?

Q. At bow or stem. A. Suppose I give it to you on the third beam from forward?

Q. Yes. A. The breadth on the third beam from forward on the forecastle deck is 21 feet.

Q. 21 feet of what? A. The total breadth.

Q. You misunderstand my question. A. I will take it up with the other one and give you the difference.

Q. I mean the overhang of the bow, and not the width of the vessel. A. This will give you the over-

hang of the bow by taking the two breadths on the same section.

Q. Any way you get it. Work it out your own way. But what I want is the overhang of the stem at the fore-castle deck with respect to the main deck. A. Oh, the overhang of the stem?

Q. The stem. A. To the best of my recollection, the stem, in relation to the perpendicular, that is, to a perpendicular line from the keel of the vessel—the head of the stem was about $2\frac{1}{2}$ inches forward of an extension of that line put across a base line.

Q. $2\frac{1}{2}$ inches? A. Yes. That is to say, that the head of the stem was forward $2\frac{1}{2}$ inches more than the base of the stem if it were extended to the line of the keel.

Q. You mean to say that the stem at the fore-castle deck was only $2\frac{1}{2}$ inches beyond the stem measured lengthwise of the vessel at the main deck? A. No. At the keel.

Q. What is it at the main deck? A. At the main deck it would be a small proportion of that. Say perhaps $\frac{1}{4}$ of an inch—between $\frac{1}{4}$ and $\frac{1}{2}$ an inch.

Q. On Exhibit X¹⁵, Figure C, you have marked the point of entrance of the stem of the *Virginian* into the hull of the *Strathalbyn* with an arrow, marked "EN," and the part where the stem cleared the frame of the *Strathalbyn* with an arrow "L". Is it your opinion that the line between those two points gives the course and direction of the stem of the *Virginian* in passing through the *Strathalbyn*? A. It is.

Q. And, if I understood your testimony correctly, an extension of that line will give the course and direction of the *Virginian* as she approached and at the time she struck the *Strathalbyn*? A. Yes; immediately before the collision that would be the relative position.

Q. And that direction, as you estimate it, was about $3\frac{1}{2}$ points off the boart bow of the *Strathalbyn*? A. Yes.

Q. If the course of the *Virginian*, with respect to the *Strathalbyn*, in passing through the *Strathalbyn*, was deflected in any way, your calculation would be all wrong, wouldn't it? A. Yes.

Q. What would be the effect of an impact upon the port side of the Strathalbyn at the point you have indicated near the stem of a vessel of the size of the Virginian? Would it not shove the bow of the Strathalbyn towards the Strathalbyn's starboard? A. Given long enough time, it would; a blow on the port bow of the Strathalbyn would, I would expect, do about as happened in this case—go right through without moving the object.

Q. That is a matter of conjecture, however, is it not? A. Yes.

Q. If, in point of fact, the impact of the Virginian did shove the bow of the Strathalbyn over to starboard, the conclusion you reached as to the course and direction of the Virginian in approaching the Strathalbyn would be wrong to that extent, wouldn't it? A. Yes. But it is inconceivable to me that, in a short period of time, the Strathalbyn's bow would be shoved over any perceptible distance, displacing the great amount of water that it would have to get over. In other words, you would have to, at a point right at the end, shift a vessel, that was say 370-odd feet long and 24 feet deep, bodily over, and displace in a short time the great amount of water necessary to put her in a new position.

Q. You, of course, know nothing about the relative positions of the vessels at the time of the collision or immediately succeeding the collision? You were not on the ground at the time? A. No; I know nothing about it.

Q. If, as a matter of fact, at the time this collision ended and the vessels pulled apart, the Strathalbyn was pointing at practically right angles to the Virginian and to what was her starboard at the time that the collision took place, would it not be evident that she had been shoved right into that position by the impact of the Virginian? A. Yes. Given sufficient time, a blow or pressure acting on the stem would tend to alter the vessel's course, or alter her relative position; but it would take some considerable time for that force to act.

Q. If her position was altered by the time the collision was through, it would be attributable to that impact, wouldn't it? I mean if it is established by evi-

dence of parties on the ground that her position was switched around so that her bow was pointing to the starboard, it would be the result of that impact, wouldn't it? A. Well, providing no other force was acting tending to alter the positions of the vessels, it would be so; but, if the rudder, or some other thing, or the vessel had been swinging, it would be different.

Q. If the swing took place during the collision it would not make any difference whether it was weather, or tide, or impact, would it? It would make the conclusion you have reached erroneous, wouldn't it—the conclusion you have reached an erroneous one? I mean your conclusion as to the direction of the *Virginian* at the time of the collision. A. No. I can't agree with that, because I contend that the time between the time that the stem of the *Virginian* entered the bow of the *Strathalbyn* to the time of the final cut, or to the time that she had cut right through the frame end plating, was so small that any variation in the directions of the two steamers would almost be imperceptible in that cut.

Q. That is your theory about it? A. Yes.

Q. If, as a matter of fact, the position of the *Strathalbyn* was changed by the impact of that collision, I want to know if the conclusion you have drawn as to the course and direction of the *Virginian* prior to the collision is not erroneous?

MR. HAYDEN: I wanted to object to that. It is assuming a condition of affairs that the evidence has not shown existed.

A. No. Because my conclusions are drawn from the position of the two vessels between the time of the first strike until the cut had been completed, which would only be a very, very small space of time, and that any variation in course in that time would not seriously affect the general direction of the cut.

Q. You say that any variation in course would not seriously affect the direction of the cut. Just what do you mean by that? A. I mean—I have stated, I believe, the cut was from this point "EN" to this point "L", and that any variation in the directions of these two vessels in that distance, in the short space of time that the stem took to go from "EN" to "L" would be so

imperceptible that it would not make practically any variation at all.

Q. In other words, you think there was not any change in the position of the two vessels with respect to each other during the time that the Virginian was passing through? A. I don't think there was any perceptible difference. The vessels might have been swinging, or they might have been changing; but in the time that the stem took to go 20 feet the swinging or change of the angles on one vessel to the other would be very, very small.

Q. But to whatever extent there was a change in the angle of the two vessels to each other, your conclusion as to the course and direction of the Virginian prior to the contact, to that extent, would be inaccurate, wouldn't it? A. Yes, to any change that there could be in the vessels in that time; that is, in the time that the stern took to go from "EN" to "L".

Q. Now, Mr. Jack, you understand that the Strathalbyn had a rather heavy starboard list at the time of this collision? A. So I am informed.

Q. And she had a full cargo of lumber? A. Yes.

Q. Loaded down to her water line? A. Yes.

Q. The Virginian, as you understand, was on an upright keel? A. So I have been informed.

Q. And the Virginian striking just abaft the stem on the port side of the Strathalbyn, the stem at that point, which is the upper deck, passed to the Virginian's port side, and below the 31-foot water line the hulls of the two vessels passed to starboard. Now, that necessarily resulted in the scraping of the hulls of the two vessels as they passed to starboard, didn't it? A. Yes.

Q. And the bulge of the vessels increased as it got a little further back from the bows? A. Yes.

Q. Wouldn't that inevitably either crush in the bows of one or the other vessel at that point, or push the vessels apart? A. Yes.

Q. The result being to push the Virginian to her port sheer off from the Strathalbyn, wouldn't it? A. Well, providing there was no cut-in. If there was a cut-in there would be the resistance of the frames and plates to be torn off, which would tend to keep the stem,

that is, the Virginian's stem, in the position it was cutting in. In other words, as well as the force that was working on the starboard bow of the Virginian tending to force her away from it, there was another force on the port bow of the Virginian which was tending to hold her to it. It is a question of which of these two forces would be the most; but the force on the port bow of the Virginian must have been very severe to have torn all these frames and beams and deck plates apart.

Q. If the contact occurred as you have indicated, the Virginian coming from a course $3\frac{1}{2}$ points off the Strathalbyn's port bow, would not the inevitable result have been for the contact of the lower portion of the bows of the two vessels to have sheered the Virginian off to her own port, and the contact with the upper deck of the Strathalbyn, the Virginian having the greater weight, would have carried the bow of the Strathalbyn around to her starboard? A. If the pressure had been brought on this point "EN", where they entered, slowly and steadily, the natural result would have been to force that bow around. But the actual impact was more or a blow which cut right through. It seems to have right through the plating immediately and expended itself in getting through the plating. In other words, as soon as it had cut through the plating there was no longer a force acting to tend to deflect the bow of the Strathalbyn.

Q. Is it not the fact that the stem of the Strathalbyn was warped around to her starboard, instead of being broken and pulled and pushed around to her own starboard? In other words, the Virginian did not cut through that part of the Strathalbyn, but shoved it around to the Strathalbyn's starboard side? A. Oh, no; the Virginian cut right through the plating and carried the stem with it right around and left it along with the wreckage.

Q. The stem of the Strathalbyn was carried around to her port side, was it not? A. The lower part of the stem was, that is, below the 29-foot mark; but the upper part was carried around on the other side—that was carried around on the starboard side and lay amongst the other wreckage or as part of the other wreckage.

Q. I ask you if the stem of the Strathalbyn was not shoved around to her starboard? A. Yes. It was cut away and then carried around along with the rest of the wreckage to her starboard down to the 29-foot mark.

Q. Mr. Jack, does not the question of the speed of the two vessels enter into this problem you are giving an opinion on as to whether the impact would shove the bow of the Strathalbyn around? A. Yes.

Q. Or the contact of their lower bows would sheer the Virginian off? A. Yes. I have considered that.

Q. How could you consider it, when the question of speed has not been mentioned in any of the questions that have been put to you?

MR. HAYDEN: I object to that question as not being in accordance with the fact. The question that I asked Mr. Jack I based on the testimony of Captain Green that the contact was very quick, Mr. Green having testified that the vessels were not together longer than he could snap his finger.

MR. BOGLE: I want to object to counsel making these suggestions in the presence of the witness.

Q. Has the speed of either of these vessels been given to you in any of these questions that have been put to you in regard to the course and direction of the track through the vessel? A. Not that I recall.

Q. Then, if you have to take speed in consideration in reaching the conclusions that you have reached, what did you take as the speed in reaching them, or did you have any? A. No, I didn't have.

Q. Then you guessed at the speed by the character of the cut or break?

MR. HAYDEN: Same objection; and that in my question to Mr. Jack I spoke about the vessels being together a few seconds.

A. I did not guess at the speed, because I would be more or less familiar with talk in connection with this collision, and I knew that the vessels were not traveling—either of them was not traveling—very fast at the time, and that immediately after the collision they were not passing each other at any great speed.

Q. What speed have you estimated that each ves-

sel had at the time of contact, in working out your conclusions? A. In knots I have not had any actual figure of speed at which the two vessels were coming together, but I have had it in my mind that the speed was such that in fact it was just an expended blow, or, in other words, that the vessels were coming to rest, and that they would not pass each other had they not collided; that is, that the way that was on either vessel would not be sufficient—I will say that the way that was on the *Virginian* would not have been sufficient if she had not collided to take her more than perhaps her own length or perhaps two lengths.

Q. And you still think that, going at that slow rate of speed, the *Virginian* would not have shoved the bow of the *Strathalbyn* around to the *Strathalbyn's* starboard by that impact? A. No, I still say, and I still think, that had she not pierced the plating immediately on striking, she would then have had a much more tendency to alter the course of the *Strathalbyn*; but after she pierced the plating and beams, I don't think that the tendency would then be to shove the bow around at all.

Q. It is true, Mr. Jack, is it not, that the contact of the bows starboard to starboard below the 31-foot line had a tendency to sheer the *Virginian* further over to the starboard side of the *Strathalbyn*; whether it actually affected a perceptible sheering or not, that was the tendency? A. Yes, below the 29-foot mark that is the case. Above the 29-foot mark it is not the case.

Q. She was on an even keel. If she shoved over at all, the whole vessel would be shoved over, wouldn't it? A. Yes. But the upper part above the 29-foot mark had the frames, the deck plating, etc., of the *Strathalbyn* tending to keep it over the other way.

Q. Mr. Jack, when did you reach Tacoma on this trip? A. On Monday morning, the 22nd of January.

Q. When did you leave for New York after your work was finished? A. I think about March 15th.

Q. When were the repairs on the *Strathalbyn* completed and she went to sea re-loaded after the accident? A. They were finished about that.

Q. Did she leave the Sound before you did? A. No.

Q. She was still there when you left? A. She was still there, loading the remainder of the cargo that had been discharged

Q. You stated, I believe, that at the time these measurements were taken of the forward deck of the trathalbyn at Esquimalt, there were present, besides yourself and Mr. Walker, Captain Logan, representing the underwriters on the Strathalbyn, Mr. Hayden, Mr. Bogle, and the captain and first officer of the ship? A. Yes.

Q. Mr. Hayden was the representative of the owners of the Strathalbyn, was he not? A. As I understand it, Mr. Hayden was acting for the Strathalbyn's interests.

Q. And Mr. Bogle was representing the Virginian's interest? A. Mr. Bogle was representing the Virginian's interest.

Q. You were representing the Strathalbyn interest. Mr. Walker was the surveyor for the Virginian interest? A. Yes.

Q. In point of fact, these measurements were made by you and Mr. Walker or under your directions? A. Yes.

Q. Captain Logan, while present, was not a party to the making of the measurements, was he? A. Captain Logan was a party, in other words, he attended to the taking of these measurements in an official capacity.

Q. He took no notes, did he? A. Not to my recollection.

Q. No one took notes of these measurements except yourself and Mr. Walker, so far as you know? A. I believe Mr. Hayden took some notes. He did not take all the notes. To my recollection, I remember he took some.

Q. After you had finished the measurements did you compare your notes with Mr. Hayden's? A. With Mr. Walker's.

Q. No. Mr. Hayden? A. No.

Q. You merely compared with Mr. Walker's? A. Just compared with Mr. Walker's.

Q. You understood that you and Mr. Walker were

to make measurements and agree on measurements?

A. Yes, and Captain Logan.

Q. And Captain Logan. And that was for the common benefit of all interests affected? A. Yes; and Captain Logan—he said, “There is no use of all taking notes. You fellows take the notes, and we will take them afterwards.”

Q. Mr. Hayden was from Tacoma, was he? A. Yes.

Q. And Mr. Walker and Mr. Bogle were from Seattle? A. Yes.

Q. And you at that time were making your headquarters in Victoria? A. That is right.

Q. Captain Logan was in Victoria? A. Yes.

Q. And the vessel was in Esquimalt? A. Esquimalt.

Q. And the captain and the mate were on the vessel? A. That is right.

Q. What was the purpose of taking these measurements? A. Well, Mr. Hayden wanted to have the measurements or something in connection with the case. I don't know just exactly what his ideas for most of the measurements were, but I take it, in a general way, he wanted to ascertain the position of the direction of the side lights—the lights and the side lights with reference to the deck cargo.

Q. The real object was to determine whether those side lights were obscured by the deck cargo, was it not? A. Yes.

Q. You say that Mr. Hayden wanted it. You understood that the representatives of the Virginian wanted the same information, and that is the reason you had a joint measurement, did you not? A. Well, I didn't know until the arrival of these different gentlemen on that morning that any representative of the Virginian were going to be there; and my idea then was that they wanted to be present at the taking of any measurements which might be used later.

Q. Mr. Jack, didn't you understand, either from Mr. Hayden or from some of the other parties in connection with the matter, that the representatives of the Virginian wanted to take these measurements to ascer-

tain the location of the lights, and that it had been agreed by both parties that, instead of having each take separate measurements, they would have you, as the representative of the Strathalbyn, and Mr. Walker, as the representative of the Virginian, Captain Logan, if he desired to join, as representative of the underwriters, to take these measurements for the joint benefit of all the parties? Didn't you understand that was the reason they were all there? A. I didn't understand it so. By looking back on it now, I think that is probably the natural way to look upon such a meeting.

Q. Why was it that you subsequently took steps to get Mr. Walker to sign the blue print and O. K. it as correct, if you understood it was to be used by the Strathalbyn interest only? A. I wanted to have Mr. Walker agree to the figures that had been taken, that is, officially agree to the figures that we had already taken and checked over.

Q. After these measurements were taken and you and Mr. Walker had compared your notes, they agreed, I think you said? A. Yes; that is, substantially agreed. There might have been some figures that he had that I had not, and some figures that I had that he had not.

Q. As a matter of fact, there were quite a number of measurements taken, of which neither of you kept any record, because you decided later that they were not material, did you not? A. Well, I have a record of a figure 17 feet 1 that I recall in my notes, and I don't remember what that was; I don't remember what it was taken on; and there were on the forward deck, I think probably before we started off to take measurements at all, that the tape was stretched perhaps a couple of times across the deck before it was decided on what breadths these measurements should be taken, and it was eventually agreed that they, I think, would be taken about 12 feet apart.

Q. Mr. Walker and all the other gentlemen except yourself and Mr. Logan returned to either Seattle or Tacoma after these measurements were completed, and you and Mr. Walker had agreed on your notes? A. Yes. They returned, I think, with that afternoon steamer.

Q. And it was left for you to arrange with the draftsman to make a tracing and the blue print? A. Yes.

Q. And you did that? A. Yes.

Q. Who was the draftsman that you engaged? A. The draftsman of the B. C. Marine Railway Co.; those were the people that were doing the repairs.

Q. Was he present at the time you and Mr. Walker made the measurements? A. No.

Q. He was an employee of the company doing the repairing on the Strathalbyn? A. He was.

Q. And did you arrange with him that afternoon or the next day? A. I arranged with him, I think, probably that morning, because I arranged with him on the Saturday; this was on Monday that these measurements were taken, and on the previous Saturday I arranged with him to come down to the ship and bring what instruments he might consider necessary to take the dimensions of the ship. I thought that we might require them at this survey. I told him to get such dimensions as were necessary to make a drawing and tracing of the outline of the forward end of the ship.

Q. That was to give the sheer of the ship? A. To show the sheer, and also to show the plan view of the forward deck and a section looking on the forward end of the bridge.

Q. But the point at which you and Mr. Walker made your measurements—took your notes—he knew nothing about until you furnished him that information? A. No; he couldn't know anything about it.

Q. And he made a tracing and submitted it to you? A. That is right.

Q. And you examined it, did you? A. I did.

Q. And compared it with your notes? A. Yes.

Q. The matter was fresh in your recollection at that time? A. Reasonably so.

Q. It was only a few days after the measurements had been taken, I think? A. Yes, it would be probably within a week, I think.

Q. Did you submit that tracing to Captain Logan before the blue prints were taken? A. I am not sure. I think Captain Logan and I both looked at it in the

drawing office of the B. C. Marine Railway at Esquimalt.

Q. And after you satisfied yourself that the tracing was correct you instructed him to take off the blue print? A. I told him to take one blue print.

Q. Was there any special reason in taking only one, Mr. Jack? A. Well, I thought that one blue print would be—there would be only the one statement. In other words, I didn't want the figures to be put on a tracing, which would be duplicated a number of times, and I thought the idea was to have one form of evidence of what had actually been taken, and I thought it better and more reliable to have a blue print, which would not be duplicated and could not be changed.

Q. Mr. Jack, is it not customary among the marine surveyors, when they join in work of that nature, which is reported in a tracing and a blue print, signed by the surveyors who have done the work, to furnish each of the surveyors who sign it with a copy? A. In some cases it is and in some cases it is not.

Q. It is unusual, is it not? A. Oh, no.

Q. Isn't it your own practice to take it, where you — A. No, I have no copy of that blue print, and never had a copy.

Q. Your clients have? A. Yes. But my understanding was that this record—this blue print—was to go in evidence, and would be the only copy, and that any further copy—that any copies—would be made from that blue print, which was the original.

Q. Going back to the draftsman's work, he made the one blue print under your instructions and delivered that to you? A. Yes.

Q. And after examination by yourself and Captain Logan approved that, you signed it? A. Yes.

Q. And you gave it to Captain Logan to procure Mr. Walker's signature if it checked up with his notes. Did you ever see that blue print any more from the time it was signed to the taking of this testimony? A. I saw it for the first time after signing it on Monday of this week. Mr. Hayden showed it to me this week.

Q. Did you know what became of it? A. It went to Mr. Hayden.

Q. By whom? A. I do not recall whether I left it with Mr. Hayden or whether Captain Logan did; either one of us did.

Q. What became of the tracing? A. The tracing? I left it with Mr. Hayden.

Q. With whom? A. Mr. Hayden.

Q. When? A. Before I left Tacoma.

Q. Then before you left you took the original tracing from the draftsman—— A. Yes.

Q. And the only blue print in existence, and delivered both, or caused them both to be delivered, to Mr. Hayden? A. That is right.

Q. And you did not understand that the other parties in interest were either entitled to or expected any copy of the blue print or evidence of these measurements? A. I thought that if they were either entitled to it or expected it, Mr. Hayden, who had instructed me to have these made, was the party to deliver to whoever should have it a copy. I personally didn't receive a copy.

Q. But I understand from you there was only one blue print made? A. That is right.

Q. Was there ever any other so far as you know? A. Not to my knowledge. My instructions were to make one blue print, and the dimensions were only put on that blue print and were not put on the tracing.

Q. The tracing, however, shows the point at which these measurements were taken by you and Mr. Walker? A. Most of them, yes.

Q. It shows all that appear on the blue print, of course? A. Yes.

Q. I now direct your attention to that tracing, Libellant's X¹⁴, and call your attention to the line of measurement reading as follows, "48' 6 $\frac{7}{8}$ " from inside to inside of bulwark rail." You furnished the draftsman before he made this tracing with the figures of that measurement and the location of the measurement? A. No. He got that measurement himself. That tracing was complete as it is shown now when examined by me at the first time.

Q. I understand that; but isn't this measurement, 48' 6 $\frac{7}{8}$ " inside of bulwark rail, one of the measure-

ments made by you and Mr. Walker? A. I don't think it is. I believe our measurement was taken to the inside of the pipe. There was a pipe on one of the rails, and we took it to that pipe. I would not be sure without looking at the two drawings whether that is one of the measurements or not—whether that was the actual figures that we found it or not.

Q. On this tracing there is a line showing a measurement between blocks on the forward ends of the screens? A. Yes.

Q. That is a part of the original tracing? A. Yes.

Q. That line with those descriptive words on it was made by the draftsman from information furnished by you, wasn't it? A. No. That line was made by the draftsman as he, I imagine, understood that we were going to take—in taking the dimensions of the light screen we were going to take the dimensions between the forward blocks, which we did not do.

Q. The draftsman was not present when you took these measurements? A. No, he was not present.

Q. How did he get any information to make these lines showing points at which the measurements were supposed to have been made, unless you gave it to him? A. I suppose in the same way as he got all the rest of the information. Presumably he knew what we wanted to get at was the position of the light screens.

Q. Mr. Jack, the purpose of these measurements was to get the distances between certain points? A. Yes.

Q. Which would be certified by you and Mr. Walker? A. That is right.

Q. And they were to be shown by a tracing in a blue print? A. Yes.

Q. Now, do you mean to say that the tracing was made by the draftsman without any information from you or anybody else as to points between which you and Mr. Walker made your measurements? If so, why did you ever make your measurements? A. Well, I presume—in fact, I know—that I discussed in a general way with the draftsman the directions that we had taken—where we were taking dimensions from—and I think prior to the dimensions taken at all I had given

him instructions as to how I wanted these taken. In fact, I did give him instructions on the Saturday prior to the measurements. The measurements were taken on Monday.

Q. Then you did give him the instructions to make a line between the blocks on the forward end of the screens? A. Yes, at that time.

Q. The figure showing distance being left blank on the tracing? A. Yes. I at that time expected that the measurement would be taken from the forward end of the blocks.

Q. This was several days, as you said a while ago, after the measurements by you and Mr. Walker had been taken? A. Yes.

Q. You did not expect to go there alone in Mr. Walker's absence and take these measurements again, did you? A. No. But when I gave these instructions about what kind of drawings we wanted, it was the Saturday before the measurements were taken, and I roughly outlined to him what we wanted.

Q. Do you mean that this tracing and the blue print which you and Mr. Walker have certified does not show the lines at the points you and Mr. Walker measured? A. Some of it does and some of it does not.

Q. Then how were you able to take them up with the notes of your measurements, if the lines were at different places? A. Well, on the forward deck we checked up to show approximately the position of the inside of the rail at the different points; and the other measurements—in other words, the draftsman got instructions to make that as an outline drawing, so that it could be dimensioned afterwards; that that drawing was to be a sketch as found from measurements taken by him.

Q. Now, when you and Mr. Logan received this tracing from the draftsman, you, of course, saw that he had shown a line between the forward ends or between the blocks on the forward end of the screens, didn't you? A. Yes.

Q. And you instructed him to have the blue print made accordingly? A. Yes. But we saw that tracing in the B. C. Marine office and went over it in a general

way, and I instructed him to have a blue print made, and I do not think I had my notes with me the day that we looked at the tracing.

Q. After the blue print was made you and Mr. Logan again examined that, didn't you? A. Yes.

Q. And you found that the blue print showed same measurement between the blocks and the forward end of the screen? A. Yes.

Q. And you yourself filled in the figures 46' and 10" as the distance between those two points? A. No, I did not.

Q. Who did? A. The draftsman may have done it.

Q. And he did it under your directions? A. Yes. I didn't put any figures on that tracing other than some pencil notes.

Q. At the time this blue print was presented to you by the draftsman there was no one in Victoria who had notes of these measurements except you? A. That is right.

Q. If that is his handwriting, didn't he get that figure from you? A. He must have.

Q. Now will you please turn to your notes and show whether they correspond with this blue print as to the distance between the blocks on the forward end of the screen?

(The envelope in evidence is handed to the witness.)

Witness—I have no record of any measurement being taken between the blocks at the forward end of the screens, the only measurement across there being 46' 10" inside of the iron lamp holder, and that measurement was penciled on the blue print by me as well as some other measurements, most of the other measurements being penciled in by the draftsman; and all the measurements being afterwards inked in by him, with the exception of the measurement across the forward end of the bridge, which, for some reason, seems never to have been inked in.

Q. Have you any notes of any measurements taken by you and Mr. Walker that show the distance between

the center of the frames of the starboard and port lights? A. No.

Q. And that was the express purpose for which these measurements were taken, wasn't it? A. Yes.

Q. This screen was built in the usual and customary way and in accordance with the requirements of the regulations, was it not? A. Yes.

Q. What is the purpose of this block on the forward end of the light screen? A. The purpose of the block on the forward end of the light screen is to limit the range of light; that is, to have the light show dead ahead.

Q. And the outer edge of that block on the forward end of the screen is directly in line of the center of the flame of the light? A. I am not sure whether that is directly in line with the center of the flame of the light or with the inboard edge of the wick. I am inclined to think it is the latter.

Q. It is practically on a direct line with the light itself? A. It is in direct line with the light itself, that is, some part of the light. I am not sure of which part of the light.

Q. The distance between the outer edges of the blocks on the forward screen would be the distance between the port and starboard lights? A. The distance between some part of the port and starboard light.

Q. What is the reason you did not take that measurement? You say you did not take it. What is the reason you did not? A. Well, I may say I thought you were going to take it, as I have already explained. I thought that that was the measurement that was going to be taken; and in course of discussion on the bridge they called for the lamps and found that the lamps were in Tacoma; and Mr. Hayden, I think it was, suggested that, as the lamps were there, the best way to take the measurements would be to take them from the inside of the screen—of the iron lamp holder; and that the actual distance to the center of the lights, or the center of the wick, could be measured from the lamps in Tacoma. I may say that I expected that that measurement would be made by us all and would become part of the blue print.

Q. Then why did you proceed to make the tracing and blue print, and certify it and deliver it, without making that very measurement, which was the very thing they wished? A. Because the lamps were already in evidence, and I understood could be measured in course and at the same time whenever everybody was present.

Q. The lamps were where? A. I don't know. They were in Tacoma some place. They were—I understood they had been kept as evidence.

Q. But, Mr. Jack, if you were going to make the further measurement of the lamps themselves before you completed your work, which was intended to ascertain the distance between these two lights, why did you complete your work with your tracing and your blue print and submit it to Mr. Logan and Mr. Walker and get their signatures, and deliver it to Mr. Hayden—send your boat to sea—and you come back to New York, without ever doing it? A. Because I thought that as long as the distance between these iron brackets was known, the lamps could be set in their respective positions one to the other, and the actual distance between the lamps could be easily seen or measured.

Q. After the ship had gone to sea? A. Whenever the point came up for discussion at any time.

Q. If the ship had gone to sea how could you measure the lamps? A. I understood the lamps were going to be retained.

Q. Didn't you understand that the whole purpose of this was to get you and Mr. Walker to agree on these distances, so that we would have no further controversy about it? A. No. I understood that the idea was that these lamps were retained and would be retained, and the measurements were taken with a view of setting these lamps in their respective positions outside of the ship altogether. They could be set in a court room, or any other place, actually in the position that they were in, and the distance apart; and I understood that the lamps were going to be left ashore and that new lamps were to be furnished the vessel.

Q. You mean that you could go and get those lamps now without the ship being present, and you could

tell what the distance between those two lights was?
A. Yes.

Q. How would you do it? You have not got the brackets here. A. No. But you have got the position. There is a socket at the back of the lamps, which ships right on to these iron lamp holders; and you have the distance between these iron lamp holders. You set one lamp down here (indicating) and measure from this socket, and place the other lamp at the distance that the two sockets are apart, and you have the distance of your lamps.

Q. Mr. Jack, don't you remember that you had a good deal of discussion—you and Mr. Walker—about getting at the distance between these two lights, and that you did first take a measurement from these brackets that you have mentioned? A. Yes.

Q. And found the lamps were not there, and you could not complete your work; and that Mr. Walker suggested that it was foolish to take the measurement in that way; that a measurement from the outer edge of the block on the forward screens would give you the information that you wanted; and that you took that measurement and put it on your tracing and had a blue print— A. No. I remember some discussion about taking the measurement from the blocks, or between the blocks, and I remember thinking that that would be a reasonable way to do it. But such a measurement was never taken in my presence.

Q. Why not? A. Because it was stated—Mr. Hayden stated that the information that he wanted was the position between the iron holders, so that the actual position of the lamps could be defined. Another thing was that to get the dimensions between the blocks we found would be rather difficult, as we could not get any direct line between the two blocks. That is to say, that at the side of the bridge it was impossible to drop a line directly between one block and the other. The distance to the outer end of the bridge was about 11 or 12 inches. I think I have testified to it being 11 inches. And to get this measurement would require to extend—that is, the measurement would be required to be taken right outside of the bridge, clear of it altogether, and it would

be a very difficult place to take that measurement; and you would have to extend the ends—that is, the blocks—the blocks would have to be extended out 12 or 14 inches before that line could be taken.

Q. You did that in a great many of these measurements that you took, did you not? A. No. In none of them. They were all taken to a direct point; that is, they were taken in the direct line.

Q. Take the measurement that appears on the blue print adjoining and immediately above the measurement between the forward end of the screens. Was the same obstruction existing to that measurement that there would have been to the forward end of the light screen? A. That is a measurement across the bulwarks.

Q. Yes? A. Between the bulwark rails is the measurement of this.

Q. I understand that. A. There were no obstructions there; the deck is clear, and you can stretch a line right across.

Q. You do not mean to say that you and Mr. Walker could not have taken the measurement between the blocks on the forward end of these screens and taken it accurately? A. I do not mean to say that for a minute; but I do mean to say that it would have been between those and not an extended line; that is, we could not have had a direct line unless we had made holes in the side of the bridge.

Q. Then you could not have a—— A. We couldn't have it complete——

Q. —direct line across? A. No.

Q. But you could have had an accurate measurement without that? A. Yes, we could have had an accurate measurement.

Q. Have you any way of computing the distance between the outer edges of the blocks on the forward end of the screens? A. I don't quite follow that question.

Question repeated. A. No.

Q. Is it more or less than 46 feet 10 inches? A. More than 46 feet 10 inches.

Q. How much more do you think? A. Well, I estimate that these irons—the iron lamp holders—were

about $1\frac{1}{2}$ inch out from the inside boarding of the screen. That would make 3 inches in the two. Deducting that from 46 feet 10 gives 46 feet 7. The depth of the blocks at the forward end of the screen was $4\frac{1}{2}$ inches, making a total of 9 inches; and adding this to 46 feet 7 would give 47 feet 4 inches.

Q. The point on the brackets from which you claim you made this measurement of 46 feet 10 inches is how far from the inside board of the light screen? A. About an inch and a half.

Q. It is an inch and a half outward from? A. It extends out about an inch and a half from the inboard board of the light screen.

Q. What is the thickness of the board of the light screen? A. I should think about an inch or an inch and an eighth.

Q. Then the point from which you claim you took this measurement was about $2\frac{1}{2}$ or a fraction over $2\frac{1}{2}$ inches outside of the inside of the screen? A. Yes.

Q. The inner side of the screen? A. Yes.

Q. The measurement which your blue print shows gives the distance from the inner side of the screen to the end of this block as $4\frac{1}{2}$ inches, doesn't it? A. Yes.

Q. So that, according to your statement, the outer edge of this block on the forward end of the screen would be approximately 2 inches further out than the point from which you took your measurements? A. No. Approximately 3 inches.

Q. The measurement of $4\frac{1}{2}$ inches is from the inside of the screen to the outer edge of that block? It is the width of the forward block? A. No. It is from the outboard side of the screen. $4\frac{1}{2}$ inches as the depth of the block, and then behind that there is the thickness of the screen board.

Q. Look at your blue print and see if the drawing there does not represent the $4\frac{1}{2}$ inches as including the thickness of the screen board? A. No, it does not. There are two dotted lines, one extending up, showing the outboard side of the screen board, and the other showing the outboard side of the block.

Q. Then, according to your statement now, the point from which you took the 46 feet 10 inch measure-

ment was 3 inches in from the outer edge of the forward blocks on the screens? A. Yes, on each side.

Q. So that the distance between the outer edge of the blocks on the forward light screens—one the forward end of the light screens—would be 46 feet 10 inches plus 6 inches? A. That is right—or 47 feet 4 inches.

Q. 47 feet 4 inches; and that is as near as you can approximate the actual distance between the lights, as you record those measurements? A. The actual distance between the blocks, yes.

Q. Between the lights? A. Between the line of the light at the blocks.

Q. Under the regulations the light would necessarily be either on a line with the outer edge of this block or a little inward from it, would it not—in order to prevent—in other words, if it was a little out, it would cause the lights to cross in front of the bow? A. Yes. These lights should show dead ahead.

Q. So that the distance between the outer edges of these blocks at the forward end of the screen is as great as, if not a little greater than, the distance between the lights themselves? A. I don't know at what point the lights ahead, if any, would come together. I don't know whether they were extended far enough that they would eventually cross each other. But I imagine that they would not; that they would show dead ahead and they would not come together at all.

Q. When did you first make the discovery that this tracing and the blue print, which you had certified, was in error? A. By receiving a telegram from Mr. Hayden, asking me to look at my notes and state what this measurement was, and then by receiving a letter from him saying that his notes showed that an error had been made, or——

Q. I don't want you to state what he said unless you want to produce his letter.

MR. HAYDEN: We have no objection to produce the letter if you want to see it.

MR. BOGLE: I did not ask for it. I don't know that I object to it or not unless I see it. I do not call for it. I do not want him to state what is in there. I do not call for it.

MR. HAYDEN: Have you got that cable and letter, Mr. Jack? — I will show it to you, Judge Bogle. Let the record show that the message that Mr. Jack has referred to and the letter are shown to Judge Bogle.

The letter is handed to Mr. Bogle, and he is also shown a copy of Mr. Jack's reply.

Q. What was the date when you received the first information that there was probably a mistake in the blue print? A. Referring to this telegram which I received from Mr. Hayden, or Huffer, Hayden & Hamilton, which is dated April 15th, I must have got it directly after that—within a day or two.

Q. That was about a month after the Strathalbyn had gone to sea? A. Yes.

Q. Mr Jack, you have mentioned that you put some pencil memoranda on this blue print? A. Yes.

Q. When was it placed there? A. It was placed there before the tracing left—before it was inked in; that is, in going over it with the draftsman in the B. C. Marine yard and in checking it up before the dimensions were put in, I either gave him the dimensions from my notes or penciled them in, and he afterwards inked them in.

Q. The pencil writing to which you refer is on the blue print in the space between the drawing of the blocks, is it not? (Blue print shown witness.) A. Yes.

Q. And is so very indistinct that it is almost impossible to read it, is it not? A. It is very difficult to read it.

Q. Can you identify it as your handwriting? A. I can identify it as my handwriting.

Q. And you put it on before the ink writing was put on this blue print? A. Yes.

Q. And, of course, it was there before you signed the blue print? A. It was there before I signed it.

Q. How did you come to sign the blue print, then, Mr. Jack, without having it corrected, if your attention was called to the fact that this measurement was not shown on the blue print? A. That I can't understand—how I come to sign that.

Q. Can you explain how it is that, if you had in

mind the fact that this measurement of 46 feet 10 inches was in between some point in the iron brackets, you had approved the blue print showing that measurement to be between the blocks on the fore end of the screens? A. The only explanation I can give of that is that this blue print was prepared when all the work was finishing up and bills being checked and a great deal to attend to, and that the checking did not receive the attention that it should have; and the dimensions were apparently all checked over, and 46 feet 10 was found in accordance with a dimension that I had, and that apparently I had not looked to see where that was between.

Q. You and Mr. Logan both checked this blue print? A. We checked it together.

Q. And compared it with your notes? A. Yes.

Q. And with his notes, if he took any? A. Yes; but I don't think he had any notes at that time; I don't think he had any notes when we checked that.

Q. In giving your testimony as to these measurements taken by you and Mr. Walker, you read from the original notes made by you? A. I did.

Q. The memorandum being Libellant's Identification X¹³. You have no independent recollection of these measurements, aside from your notes, have you? A. You mean of what the actual measurements were?

Q. Yes. A. Well, I have a recollection—very distinct recollection—of the depth of the wood blocks of 4½ inches; but the other dimensions, while I at present have a recollection of them more from these notes and from the discussions, still I have not got any—

Q. Have you any distinct, independent recollection that the measurement of the depth of the block was from the inside of the screen board? A. Yes.

Q. And did not include the width of the screen board? A. No.

Q. Do you remember that, outside of any notes or anything on the blue print and drawing? A. Yes. I remember it, because I remember at the time some discussion as to what the relative position would be of the stanchions, the wood stanchions, and our first measurement forward of the bridge was, if I remember right,

48 feet something; and somebody made a note—I don't know—perhaps two or three made a note—from the measurement we had taken and added the thickness of the two blocks; that was 9 inches; and then said, roughly, that the relative position of the inside of the rail and the line of the light would be—I think it was around 6 inches; that is, that the inside of the rail was 6 inches outside of the line of the light.

Q. So you had in mind, at this very time, the question as to whether that light was inside of this forward stanchion? A. Yes.

Q. Well, now, if the measurement of that block of $4\frac{1}{2}$ inches does not include the thickness of the screen board, there was no measurement that you could add to the $4\frac{1}{2}$ inches, or the width of the blocks on each side, 9 inches, and get a correct result, was there? A. No.

Q. Because you have got a thickness of the screen board there that you have not shown to be in those things, if your idea of the thickness of the screen blocks is correct? A. I don't quite follow that. The thickness of the screen board was immaterial, and it would not have any effect on any of these measurements at all, the only measurement being taken outside of the screen board.

Q. Were you on the Strathalbyn while she was loaded and had on a full deck load? A. No.

Q. Were the stanchions on deck when you were there? A. I think some of the stanchions were up, yes.

Q. Isn't it the fact, Mr. Jack, that, from your own observations and observations outside of these measurements that you and Mr. Walker took, those lights were on the inside of the forward stanchion? A. On the inside of the——

Q. That the distance between the lights was less than the distance between the outer side of the stanchion forward of the line of the lights? A. No. When I saw the stanchion that was when part of the deck cargo was on. I was on the forecastle head, and especially looked along the line of the stanchion to see how that looked, and it was clear then—quite clear. That was on account of the stanchion having a tumble home. If

the stanchions did not have a tumble home it might have been different.

Q. It might have been obscured, wouldn't it? A. It possibly would.

Q. Is that the reason you did not take these measurements from the forward end of these blocks—because it would show that fact? A. No, absolutely not.

Q. Was there any effort on your part to avoid taking and showing on your reports that were made by Mr. Walker and yourself a measurement that would give the exact distance between those lights? A. Absolutely not.

Q. Are all these figures and writing in ink on this blue print in the handwriting of the draftsman? A. Yes, I think they are. Let me have that blue print. (Witness looks at blue print.) Yes.

Q. Were they entered in your presence? A. No. To the best of my recollection they were penciled in in my presence and inked in afterwards.

Q. Did you read off the figures to him from your notes and he put them down in your presence? A. Yes; and then on receipt of the blue print, I think the checking was really done by pencil notes, that is, the checking was done at the time the pencil notes were put on the blue print; and when the blue print came to us afterwards we had already checked it with the pencil notes, and signed it without much bother of checking it.

Q. Didn't you compare it with your notes when it came back to you for your signature? Didn't you state a while ago that you and Mr. Logan did? A. Apparently it has not been checked.

Q. Don't you recollect that you and Captain Logan did check it up and compare it with your notes at the time that you and he signed it? A. I recollect that the time that Captain Logan and I checked it up was when there were none of these ink dimensions on it, and that we had pencil notes of the actual dimensions put in from the drawing in pencil, and that afterwards there was not much checking done; that is, after the inking in had been done.

Q. Did you ever furnish Captain Logan with a

copy of your notes of these measurements? A. No, not to my recollection.

Q. Did Captain Logan ever call to your attention the fact that Mr. Walker or the interests representing the Virginian ought to have, or were entitled to have, one of these blue prints? A. He may and may not. I do not recall the conversation.

Q. Did you tell him, when you gave him that blue print that was signed and for which he obtained Mr. Walker's signature, that the copies belonging to Mr. Walker or the interests he represented would be furnished later? A. I do not recall saying anything of that kind. In fact, I had no right to. The blue print was prepared at the request of Mr. Hayden, and it was turned over to him.

Q. All I want to get at, Mr. Jack, is whether the withholding of a copy from Mr. Walker, or the interests representing the Virginian, was a mere oversight or whether it was intentional. A. Oh, it was an absolute oversight as far as I am concerned, because both the blue print, which was to be considered the original document, and the tracing from which further blue prints could be made and could be inked in with notes to make them a true copy of the blue print, were in the hands of Mr. Hayden and he could furnish these; I presumed I could get one myself and the other interests could get one.

Q. There has been introduced in evidence a letter from Captain Logan to Mr. Walker, which I have not present before me at this time, but which states in substance, as I now recall it, that either you or the draftsman told him that you had taken the original tracing and the memoranda that you had furnished the draftsman from which he had made the tracing, and carried them back East. Did you ever give either of them any ground to understand that you were bringing those documents away East? A. These were tracings of the blue prints, not referring to this one at all, but to a tracing and notes with reference to that other blue print, Exhibit X¹⁵—Exhibit X¹⁵ I think it is—and these other sketches here which were the original sketches from which the vessel was repaired.

Q. Did you ever meet Mr. Walker after these measurements were taken? A. Never; at least, I do not recall having met Mr. Walker after that.

Q. Did Captain Logan, after he had procured Mr. Walker's signature to this blue print, inform you that Mr. Walker requested that he be furnished with his copy right away? A. I think probably he did.

Q. Did you take any action to furnish it? A. I think I told Mr. Hayden that—I don't remember whether I did tell Mr. Hayden or not; but I thought that he would get it from Mr. Hayden, as he was the only one that had the tracing and blue print and was in a position to furnish it.

Q. But Mr. Walker had left the matter with you as the joint surveyor with him. Didn't you feel there was an obligation there on you to see he got his copy, as he had entrusted you with the—— A. I couldn't furnish him with what I did not have, because both the tracing and the blue print had left my hands.

Q. You had no suspicion at that time that there was any error in this blue print? A. Absolutely none. I thought that if there had been any error Mr. Walker would have noticed.

Q. And you do not claim there is any error in it now, except that you say that that 46 feet 10 measurement is between some point and brackets instead of between blocks and screens? A. That is right. Between the only cross measurement that we took between the port and starboard light screens.

Q. And you further state that the real distance between the outer edges of the blocks and the forward end of the screen is 47 feet 4 inches instead of 46 feet 10 inches? A. Yes.

Q. Mr. Jack, at the time these blue prints were delivered to you by the draftsman and surrendered by you to Mr. Hayden, you recognized that these measurements showed that the lights on that vessel, the Strathalbyn, would be obscured by the deck load she was carrying if the forward stanchion stood straight and did not tumble in—tumble home—did you not? A. Yes. That is not the forward stanchion. You mean the stanchion just immediately forward of the bridge?

Q. Yes? A. Yes.

REDIRECT:

Q. Did you have any communication with anyone, or from anyone, to indicate to you that there was any error in this measurement prior to your receipt of the telegram from me? A. No.

Q. Is that absolutely the first time that you had any indication in any way that there was anything wrong? A. Absolutely. It came as a great surprise to me.

Q. Mr. Bogle included in a question that he asked you just a minute ago the idea that you had delivered to me the blue print. Did you deliver the blue print to me? A. Did I deliver the blue print to you?

Q. Yes. A. I either delivered it personally—that is, I delivered it personally——

Q. To me? A. Yes, or to your office.

Q. Do you remember that? A. Yes. Yes, I am confident of that—that I delivered it to you.

Q. Are you confident you delivered the tracing to me with the blue print? A. I either delivered it to you or caused it to be delivered to you.

Q. I mean did you personally do it? A. I do not recall whether I did or not.

Q. Did you bring it to the office? A. I don't remember.

Q. Did you bring the blue print to the office? A. Yes. I think I probably had the tracing with the blue print and left both together.

Q. In taking the measurement across between the lights where you got 46 feet 10 inches, did those measurements include the thickness of the inboard board of the screen—the light screen? A. Yes.

Q. Which way from the inboard board of the light screen did the brackets extend? A. The brackets extended outboard from the inboard board of the light screen.

Q. Mr. Jack, if the Virginian were approaching the Strathalbyn from a direction off the Strathalbyn's port bow of $3\frac{1}{2}$ degrees, or approximately that, and the Strathalbyn had a list of 6 degrees to starboard, at what point of the stem of the Strathalbyn would the contact first come? A. I have already testified that the stem

of the *Virginian*, in my opinion, struck the stem of the *Strathalbyn* about the 31-foot water-mark—draft mark.

Q. Would that be the first place that it would strike the stem, or would it strike the stem higher up before that, taking into consideration a list of 6 degrees, in approaching as you have indicated? A. Well, it would strike the stem higher up first. Let me see. In which direction was she listed?

Q. If she was listed to starboard. A. Yes, that would be the first point at which it would.

Q. Where? A. That is, taking it for granted that the stem of the *Virginian* is practically perpendicular.

Q. Where would it be first struck? A. About the 31-foot mark.

Q. Now, with the *Strathalbyn* loaded with a heavy deck load, and her holds full of lumber, and with a list in her natural position of 6 degrees, a blow striking her on her stem at an angle of say $3\frac{1}{2}$ points or thereabouts off her port bow, what would be your opinion as to whether or not it would have a tendency to list over the *Strathalbyn*? A. Yes, I think that it would most undoubtedly exaggerate the list or increase the list that she had prior to the striking.

Q. In connection with these measurements across the bridge and the tracing, state whether or not the draftsman made his own measurements across the bridge, and made the tracing himself from those measurements independent of any measurements from you? A. Yes. The tracing was made entirely from his own measurements.

Q. What, in your opinion, would have been the direction of the *Virginian*'s stem into the *Strathalbyn*, had the *Virginian* struck the *Strathalbyn* coming from a direction almost directly ahead of the *Strathalbyn*? A. That is, you mean striking at the 31-foot mark?

Q. Yes. A. Striking at the 31-foot mark, I think that the stem of the *Virginian*—if the stem of the *Virginian* had proceeded into the *Strathalbyn*, the upper part of the stem, that is, a foot or two above the 31-foot mark—would have gone into the port side of the *Strathalbyn*; and the lower part of the stem, that is, below the

Strathalbyn's 31-foot mark, the lower part of the Virginian's stem, would have gone into the starboard side of the Strathalbyn, and the stem of the Strathalbyn would only have been damaged or broken away within a few feet above and below the 31-foot mark by the stem of the Virginian, although it might have been damaged later by the side plating of the Virginian; but in this case it is more likely that the stem of the Strathalbyn would pierce the side plating of the Virginian.

Q. Taking a direction from the stem of the Strathalbyn, had the Virginian struck her at practically head-on courses, what would have been the direction of the cut into the Strathalbyn? A. The direction of the cut, I should say, that is, the direction of the cut that would have been made by the stem of the Virginian, would be through the 31-foot draft mark on the stem of the Strathalbyn, and through the forecastle deck, or in line with the forecastle deck, on the Strathalbyn, port side about 17 feet; that is, about 17 feet above the 31-foot mark. The Strathalbyn having a list of 6 degrees, would be about the——

Q. I do not believe you get my question quite. I want to know, if the vessels were approaching head on and the Virginian entered the Strathalbyn, the direction that the Virginian would have proceeded into the Strathalbyn had they been meeting right straight head on, under the circumstances in this case? A. She would have proceeded directly into the Strathalbyn; but what I was trying to give was about the course that the stem at this point would have cut into the different parts of the Strathalbyn.

Q. I see. A. In other words, the head of the stem would have cut in some distance on the port bow, and the foot of the stem, that is, below the 31-foot mark, would have probably cut in on the starboard side of the Strathalbyn's stem. I should roughly estimate that the distance between the head of the Strathalbyn's stem and a similar height on the Virginian's stem striking end on, would be 18 inches to 2 feet. But the stem in this case would have cut in considerably further along, measuring along the plating, than this; probably cutting in

abast the first frame on the port side at the head, or in line with the forecastle deck.

RECROSS:

Q. Mr. Jack, if this collision had occurred practically head on, with the Virginian just slightly, say one-half of one point, off the port bow of the Strathalbyn, and the bows of the two vessels below the 29-foot line passed starboard to starboard, and the Virginian had been thereby sheered to her port, it would have made a wound similar to the one made in this collision? A. No.

Q. Just yes or no. A. No.

Filed Feb. 11, 1913.)

NO. —. STIPULATION.

IT IS HEREBY STIPULATED AND AGREED, by and between the parties hereto, by their respective attorneys, that the deposition of MAGNUS L. STRAND, a witness on behalf of Libelant, may be taken before Peter A. Kimple, a Notary Public, at room 613 Central Building, Seattle, Washington, at the hour of 9:30 o'clock a. m. on March 21st, 1913, and may be transcribed and read in evidence in behalf of the libelant with the same effect as though said deposition had been taken before the United States Commissioner to whom the taking of testimony in this cause was referred.

The signature of the witness to the testimony as transcribed is hereby waived, and all other objections as to the time and manner of taking this deposition are hereby waived.

HUFFER & HAYDEN,

Proctors for Libelant.

BOGLE, GRAVES, MERRITT & BOGLE,

Proctors for Respondent, Claimant and Cross-Libelant.

DEPOSITION F MAGNUS L. STRAND.

BE IT REMEMBERED, that on March 21st, 1913, at room No. 613 Central Building, Seattle, Washington, before me, Peter A. Kimple, a Notary Public in and for the State of Washington, appeared Mr. W. H. Hayden (of Messrs. Huffer, Hayden & Hamilton), proctor for libelant, and Mr. Lawrence Bogle (of Messrs. Bogle, Graves, Merritt & Bogle), proctor for

respondent, claimant and cross-libelant, in pursuance of the foregoing stipulation;

WHEREUPON the following proceedings were had:

MAGNUS L. STRAND, produced as a witness on behalf of LIBELANT, having been first duly sworn by the Notary to tell the truth, the whole truth and nothing but the truth, testified as follows:

Q. (Mr. Hayden). Captain, what is your name?

A. My name is Magnus L. Strand.

Q. What has been your experience in connection with seafaring matters?

A. Oh, I have been sailing for about between eighteen and twenty years, from the deck-boy and up to captain and mate, sailing for—chief officer for about six years, and second officer for about four years.

Q. What licenses have you received?

A. I got unlimited license for captain, from Norway, and I got unlimited license as chief officer, United States.

Q. And what is your business now?

A. I am first officer of the whaling steamer "Star No. 3."

Q. What was your business in January, 1912?

A. I was taking care of the Tacoma Yacht Club, the yachts of the Yacht Club.

Q. And where is the Tacoma Yacht Club located?

A. It is right across from the Commercial Dock.

Q. In Tacoma?

A. In Tacoma, on the tide flats there.

Q. How old are you, captain?

A. I am thirty-six years old.

Q. Did you observe the steamer "Strathalbyn" on the 12th of January, 1912, as she was about ready to go to sea? A. Yes, sir.

Q. And where did you observe her, where was she when you saw her?

A. She was moving over to her anchorage, or else to the city buoy there, around that direction.

Q. And when was it that you saw her making that move? A. In the afternoon.

Q. And did you see her subsequent to that—after that?

A. Yes. I seen her about when she was ready to leave the harbor.

Q. And did you see her after that?

A. Not after she left the harbor, no.

Q. Did you see her the next day?

A. Yes, I seen her the next day, early in the morning.

Q. Did you observe the way she was loaded?

A. Yes, I seen her cargo—deck cargo.

Q. Did you observe any lights aboard of her?

A. Yes, sir, I seen all her running lights.

Q. Now, in your own way, captain, commencing with the afternoon when you saw her making her move, just tell what you observed in connection with the lights and movements of the steamer and whether or not the lights were visible and whether there were any obstructions in the way of the lights; just in your own way tell us just what you saw and what you were doing?

A. I was putting out the lights on the yachts, and was always looking around; and seeing the steamer "Strathalbyn" and pay attention to it—her cargo and where she went to anchor, and after through with the yachts I went ashore over to the wharf, and I was going up town for a while, but on my way going up there I happened to meet a longshoreman, looking for work I suppose.

Q. Where was that you met the longshoreman?

A. Up on the bridge.

Q. What bridge?

A. Commercial bridge. And he asked me if that boat was coming in, and I told him "No," that is "The boat is ready to leave, because she is loaded with lumber and"——

MR. LAWRENCE BOGLE: We object to any conversation he may have had with this longshoreman.

Q. (Mr. Hayden.) Well, go right ahead and tell what took place.

MR. HAYDEN: I think it is a part of the res gestae.

A. About the longshoreman?

Q. (Mr. Hayden.) Yes, go right ahead.

Q. (Mr. Lawrence Bogle.) When was this conversation? A. It on the bridge.

Q. (Mr. Lawrence Bogle.) At what time?

Q. (Mr. Hayden.) At what time, captain?

A. About six o'clock.

Q. (Mr. Lawrence Bogle.) The vessel had not left the harbor? A. No, no.

MR. LAWRENCE BOGLE: You think that is a part of the *res gestae*, do you?

Q. (Mr. Hayden.) Go ahead, captain.

MR. LAWRENCE BOGLE: We object to all this testimony as clearly incompetent.

Q. (Mr. Hayden.) All right, captain, go right ahead. You had a talk with the longshoreman. Now go ahead.

A. And I told him, "You can see she is loaded and loaded with lumber, and she got her side lights out and top light out and ready to leave."

MR. LAWRENCE BOGLE: We object to all this and ask that it be stricken.

Q. (Mr. Hayden.) Captain, instead of telling what you said to the longshoreman, tell what you saw yourself about the side lights and the upper light, just tell what you saw.

A. Saw both side lights and her top light—mast-head light.

Q. (Mr. Lawrence Bogle.) Saw both side lights?

A. Yes, sir.

Q. (Mr. Lawrence Bogle.) And what?

A. Top light.

Q. (Mr. Hayden.) You call it "top light." What other name do you give to the top light?

A. Well, I don't see any other special name for it—a seagoing man.

Q. Do you mean the masthead light?

A. Masthead light.

MR. LAWRENCE BOGLE: Oh, I object to leading the witness.

Q. (Mr. Hayden.) Go ahead. How did those lights appear?

A. And I seen both side lights at the same time,

boat was swinging once in a while and mostly I seen the green light, and they appeared to me to be ordinary good side lights.

Q. How did the masthead light appear to you?

A. Just as good as the rest of them—side lights.

Q. How far away would you say the “Strathalbyn” was from the Commercial bridge where you were standing?

A. Oh, about a little bit more probably than a quarter of a mile.

Q. About how far above the dock was the Eleventh Street bridge where you were standing—I mean the Commercial Dock bridge where you were standing?

A. Oh, I suppose about 25 feet, or between 20 and 25 feet.

Q. Do you know how the tide was that night?

A. I think it was about low tide.

Q. How much would the tide be below—the surface of the water be below the dock?

A. Well, below—low water — oh, somewheres around 15 or 20 feet.

Q. Now, captain, will you describe how the vessel was hanging and swinging, if she was swinging at all, just describe that?

A. Yes, she was swinging more or less, just as the wind appeared; sometimes a little bit stronger, you see, and sometimes dying down again.

Q. And her bow was pointing which way?

A. Her bow was pointing directly on the place where I was standing, most of the time.

Q. How would you say the side lights appeared to be burning compared with the ordinary lights of vessels?

A. I could not see any difference from an ordinary good light—good side lights and her side lights.

Q. And the same question with respect to the masthead light?

A. Yes. Yes, sir, all the lights.

Q. How long were you standing on the Commercial Street bridge observing these lights and the vessel?

A. I was standing there for about a half an hour.

Q. And how did it happen you were standing there for a half an hour?

A. I was talking with a longshoreman and looking at the boats passing around there, and looking after the yachts, because it was blowing more or less and that is why I happened to stay there and watch the harbor.

Q. Did you see these lights more than once while you were standing there?

A. Oh, yes, on and off all the time.

Q. From observing the boat as she was, what would you say or what is your opinion as to whether or not those lights could be seen directly ahead?

MR. LAWRENCE BOGLE: Oh, we object to that. The witness is not qualified.

MR. HAYDEN: Go ahead, captain?

A. You could see them both right ahead, I seen them both at the same time.

Q. And what did that indicate to you?

A. Bow right to me. I could not see anything else.

Q. Do you mean by that that you could see the lights directly ahead of the vessel? A. Yes.

Q. You said you saw the vessel the next morning I understand? A. Yes.

Q. How did that happen?

A. Oh, I seen that it was the same boat that left last night and I seen she was pretty low in the water, for one thing, and I happened to row around and look at her. Of course I was out with my lights for the yachts.

Q. Taking the lights in off of the yachts?

A. In off of the yachts, yes, and I like to go over and see what the trouble was, because I thought it was the same boat. It didn't look exactly the same forward, but I went over and I found out it was the "Strathalbyn"; looked at her; asked questions to the officers, and I left and went home again.

Q. What did you see when you looked at her, captain?

A. I see her bow was stove in and of course I figured what was the trouble and looked her all over. I didn't see any special—I asked a couple of officers if it was——

MR. LAWRENCE BOGLE: (Interrupting) Just a minute. That is clearly incompetent, and we object to any conversation you might have had with any of the officers.

MR. HAYDEN: All right.

MR. LAWRENCE BOGLE: Just tell what you know.

Q. (Mr. Hayden.) Just tell what you know, captain. Cut out that officer talk.

A. All right. By myself I wondered what the trouble was, and I know it was night and——

MR. LAWRENCE BOGLE: (Interrupting) Just tell what you saw. We don't care about your opinion on this.

Q. (Mr. Hayden.) Go ahead in your own way, captain.

A. And I looked at the side-light boards—the screens, and I see she had upper and lower boards and I seen they were all right and I didn't see anything wrong with them, and I didn't look for anything else, and left for the yachts again.

Q. What do you mean when you say you didn't see anything wrong with the light-screen boards?

A. Well, I thought probably if it had been something in the road for not seeing the lights or anything of that kind and I like to have my own opinion about it, when I see anything has happened like that; that is why I looked it over.

Q. You say not in the road. What do you mean by "not in the road," not in the road so that——

A. (Interrupting.) Oh, you see loading deck cargo they are always more or less careless with stanchions and lashings and all those things, and it can happen you don't exactly get it all in line. But that is why I looked at it; I could not see anything wrong that morning.

Q. When you say you could not see anything wrong, what do you mean by just that?

A. I mean there was nothing in the road for the side-lights or masthead lights or top lights to be seen.

Q. And to be seen in what way, captain?

A. Seen in such a way that there is no danger for collision or accident.

Q. What would be the way that there was no danger of collision or accident?

A. Yes, of course if there is anything in the road, in front of the side-lights, to take some parts of the glass away or take probably the whole part of the glass away for not showing right ahead, the lights would be out of line and they would not be in the right position that they have to be.

Q. And what would you say as to their being in the right position, or otherwise?

A. How they should be?

Q. As far as this ship was concerned, whether or not they were in their right position and could be seen ahead?

A. Well, in my judgment I would say the lights were in good position.

Q. When you speak of the lights being in good position, what lights do you refer to?

A. To the whole business, side-lights and top lights and——

Q. (Interrupting.) You have referred now to the upper screen and the lower screen you saw. Do you mean "The whole business" includes both those screens, side-light screens?

A. Both parts, yes, the upper and lower.

Q. Did you notice any difference in the appearance of the stanchions, on the morning after she came in, from what they were on the evening before she left?

A. No. No, I didn't.

Q. While you were observing these lights—the masthead light, did you see it flicker up and down?

A. No.

Q. You say there was quite a little wind blowing?

A. Yes.

Q. Did you notice the side-lights flicker up and down? A. No.

Q. Which side light did you see most while you were standing on the Commercial Street bridge?

A. The green one, starboard light.

Q. The reason you saw the red light was because the wind was swinging the stern of the vessel as she was laying at anchor? A. Yes, swinging.

Q. And on that swing it was possible for you, I understood you to say, to see both of the lights at the same time? A. Yes.

Q. That is, both the red light and the green light?

A. Yes, sir.

Q. At the time you were observing those lights from the Commercial Street bridge, did you see anything about them that raised any of your suspicions of any kind? A. No.

CROSS-EXAMINATION.

Q. (Mr. Lawrence Bogle.) How old are you, captain? A. Thirty-six.

Q. How long did you say you had been going to sea? A. Between eighteen and twenty years.

Q. How long have you been in this country, captain?

A. In this country for about ten years, I guess—eight.

Q. How long have you been living in Tacoma?

A. Living in Tacoma for seven years.

Q. Have you, captain, ever had command of any ship in this country? A. No, not in this country.

Q. Does your license include the inland waters of Puget Sound? A. It includes any waters.

Q. Have you a license for the inland waters of Puget Sound? A. Any water, yes.

Q. Have you a pilot's license? A. What?

Q. Have you a pilot's license?

A. No, no pilot's license.

Q. Your license includes all inland waters, does it? A. Yes, anything at all.

Q. It includes Alaska and any other waters, does it? A. Any waters at all.

Q. That is a good license. What boats have you been employed on, captain, in the waters of Puget Sound?

A. Boats on Puget Sound, I just been in "Star No. 3".

Q. That is the only boat you have ever been on, on Puget Sound? A. On Puget Sound, yes.

Q. That is the only boat that you have been on for ten years, is it? A. For ten years? No.

Q. You said you had been on Puget Sound for ten years, I understood?

A. I have been in and out. I have not been very much out, that is right; been sailing in the schooner, as a sailor.

Q. What vessel were you on prior to "Star No. 3"?

A. Where I was?

Q. Yes, what vessel were you on the last vessel you were on before you were on this vessel?

A. Ordinary vessel, able seaman.

Q. On what ship? A. On the "Ocean Vance".

Q. The "Oceana Vance"? A. Yes, that is it.

Q. When were you on the "Oceana Vance", captain? A. That is first coming out to United States.

Q. I mean how many years ago?

A. Oh, that is about seven years ago.

Q. Then between that time up to the time of this collision you had not been to sea at all, had you, for six or seven years? A. No.

Q. What had you been doing in that time?

A. Mostly sailing on yachts, going on yachts from Tacoma, and when they went out on trips I was along with them and helped them out.

Q. Who owns the "Star No. 3"?

A. The U. S. Whaling Company, Balfour-Guthrie.

Q. Have you been employed ashore in Tacoma during any of this time? A. Yes sir.

Q. In whose employ?

A. I have been working for Danaher Lumber Company.

Q. Is that the only employment you have had ashore? A. And Tacoma Mill Company.

Q. Have you ever been employed by the Foss Launch Company? A. No sir.

Q. (Mr. Hayden) And you were employed by the yacht company—Yacht Club, too, weren't you?

A. Yes, Tacoma Yacht Club.

Q. (Mr. Lawrence Bogle) How far is this Tacoma Yacht Club from the Commercial Dock, captain?

A. From Commercial Dock about—

Q. (Interrupting) Their anchorage ground?

A. The anchorage ground?

Q. Yes.

A. From the Commercial Dock to the anchorage ground?

Q. Yes. A. Oh, that is not very—

Q. (Interrupting) Just how far, captain?

A. Well, about four blocks. How many feet will that be?

Q. It is across the Bay, is it? A. No.

MR. HAYDEN: Four blocks, he said.

A. Four blocks.

MR. HAYDEN: 1200 feet, about.

Q. (Mr. Lawrence Bogle) And how far is that from the Yacht Club to the city buoy where this vessel was anchored?

A. Oh, that is a little bit more than the same distance, I guess.

Q. A little bit more than four blocks? A. Yes.

Q. Captain, when did this vessel move out to the city buoy, what time of the night?

A. Well, I don't remember exactly what hour, around—

Q. (Interrupting) You saw her move out there, did you? A. Yes sir.

Q. Did she have any list at that time?

A. Well, I think she probably had a little bit; I ain't sure of that.

Q. Did you notice whether she had any list or not, captain?

A. Not anything that put in my mind she had.

Q. You noticed no list whatever; is that what I am to understand?

A. Well, of course she had a little bit of a list, I think.

Q. How much list did she have, if she had any?

A. Oh, that is just a few degrees.

Q. Well, state how many. Your recollection of some of these matters is so clear, I want to see how clear it is about others.

A. Well, probably about 15 or 20 degrees.

Q. 15 or 20 degrees. You don't know what time she moved over there? A. No, not exactly.

Q. What time did you put out the lights on the yachts?

A. Oh, I put them out about four or five o'clock.

Q. Well, you put them out at four or five. You can be a little more definite about this, captain.

A. No, I can't either.

Q. You can't do it? A. No.

Q. Between four and five o'clock? A. Yes.

Q. Were there any lights out on the "Strathalbyn" at that time? A. When I was out with the lights?

Q. When you put your lights out?

A. Yes, there was lights.

Q. Her lights were out then? A. No, no.

Q. No lights? A. Not side-lights.

Q. Did she have any lights out?

A. Oh, yes, there was lights out.

Q. What lights did she have out?

A. She had lights in the rooms and all over the boat, that is all.

Q. What lights did she have out—ship's lights?

A. No ship's lights.

Q. What particularly called your attention to this vessel, captain, was she the only ship in the harbor?

A. No, but she is—I was in that position.

Q. What?

A. I was in that position, and all the ships that went out ready to go to sea I paid more or less attention to it, because there was a newspaper friend of mine who generally asked questions, any ships going out, any coming in, and I gave him information pretty near every day about what happened down on the harbor there.

Q. Have you had any conversation with this newspaper man about this accident or this case? A. No.

MR. HAYDEN: I object to that as immaterial anyway.

Q. (Mr. Lawrence Bogle) What time did you leave the Tacoma Yacht Club on this night after putting out your lights?

A. Well, I didn't leave—it was about—well, say five o'clock; I never kept track of any time.

Q. About five o'clock? A. It was daylight.

Q. And after leaving the Yacht Club, where did you go?

A. Then I went up on the boats all over and then went ashore.

Q. Went up on what boats?

A. On the yachts.

Q. Well, then you went ashore? A. Yes.

Q. And then where did you go?

A. Then I was going to go home.

Q. I know, but where did you go from shore?

A. I went from shore up on the Commercial bridge.

Q. And what time was it when you arrived on the Commercial bridge? A. Oh, about five—5:30.

Q. 5:30? A. Yes.

Q. The lights were out on the “Strathalbyn”, the ship’s lights were out at that time, were they—put out?

A. 5:30. Yes, it was pretty near dark when I saw her; I don’t know exactly the time.

Q. And you met this longshoreman friend on the dock, did you? A. No, no friend, but a longshoreman.

Q. You met him on the bridge?

A. On the bridge, yes.

Q. And stopped and talked with him there?

A. Yes.

Q. What particularly attracted your attention to the “Strathalbyn”?

A. Because he asked me a question.

Q. This longshoreman directed your attention to it then, did he? A. Yes, at that time he did.

Q. At that time. And you stood there for half an hour talking with him and looking at this vessel, did you? A. Yes sir.

Q. What lights did you see on her?

A. I seen her both side-lights and her masthead light.

Q. Those are the only lights you saw, are they?

A. Yes, except her lights in the rooms and—

Q. (Interrupting) I mean the ship’s lights.

A. Yes.

Q. And when speaking of the top lights you mean the masthead light?

A. I mean the masthead light, yes.

Q. You didn't see any other riding lights—

A. (Interrupting) No.

Q. (Continuing) —any range lights. Captain, on this afternoon were you anywhere in the immediate vicinity of the "Strathalbyn"? A. What you mean?

Q. How close were you to the ship during the afternoon? A. Oh, not very close.

Q. I will ask you this: How close were you when you saw her deck cargo? You testified you saw her deck cargo.

A. The night you mean when she went out? Oh, about five or six blocks away from her.

Q. You saw her deck cargo at that time? A. Yes.

Q. Could you tell very much about it, captain?

A. No, I can't tell much about the deck cargo.

Q. Was it secured, lashed, at that time?

A. Anyway some part of it was, yes.

Q. You could see that from where you were, could you? A. Yes.

Q. Stanchions were all up in place, were they?

A. Well, I should think so.

Q. Well, I want to know whether you know?

A. No, I don't know how many stanchions they generally use on that boat.

Q. Did you notice any stanchions up?

A. Oh, yes, I know there was some stanchions.

Q. While you were on the Commercial bridge talking with this longshoreman, were you observing this ship all the time?

A. Most of the time, yes, not—I was not exactly standing looking at the boat, but we were standing leaning over the rail, you see, and that make us face the boat.

Q. What was the height of this bridge above the deck of the steamer, how far above the lights were you standing? A. The deck of the steamer?

Q. How far above the "Strathalbyn's" lights were you standing?

A. Well, that is a question I don't know exactly how to answer.

Q. What is the clearance of the Commercial bridge?

A. From the water?

Q. From the water, low water?

A. Well, the bridge I should think is about 25 feet.

Q. That is 25 feet clearance above low water?

A. No, that is down to the ground, and then comes—

Q. (Interrupting) I want to the water?

A. Then comes about three feet more to that, then I guess about—I think it should be about low water about that time—at that time of the year, and so it would be about—well, about 18 or 20 feet, as I say. I can't figure it out any closer than that.

Q. I understand you then that the bridge was about 45 feet above the water—low water?

A. Yes, somewheres around there.

Q. At low tide which way does the tide run there, captain?

A. The way the tide runs when there is low tide?

Q. Yes, does it run out of the harbor, or in?

A. It runs in the harbor when there is low tide.

Q. In the harbor? A. Yes.

Q. In other words, it was running toward the position that you were standing?

A. Yes, sure; when there is low tide, the water starts to come in again, you see.

Q. What I want to get at, captain: You were standing on the Commercial Street bridge, weren't you?

A. Yes sir.

Q. In what direction is that from where the "Strathalbyn" was moored?

A. That is exactly about north.

Q. North.

Q. (Mr. Hayden) You mean the "Strathalbyn" was about north from you?

A. Yes, from me, of course.

Q. (Mr. Lawrence Bogle) The "Strathalbyn" was north from you? A. Sure.

Q. Which way was the tide running, north or south?

A. That is a thing you can't hardly give any answer to either, in the harbor there, but in the middle channel of course the tide runs out when there is high water.

Q. Runs out north or south?

A. Well, that will be north northwest or northwest or somewheres around there, I think.

Q. The tide runs in a northwesterly direction?

A. Yes; not anything to be sure of, but that is the way I figure it.

Q. You testify that from where you were standing on this bridge the "Strathalbyn" was a distance of about a quarter of a mile?

A. Yes, I think so, about that.

Q. And you stood there for a half an hour watching this vessel. The vessel was swinging back and forth, was she, at her moorings? A. Yes, more or less.

Q. You saw both side-lights? A. Yes.

Q. Do you know where those side-lights were located? A. No.

Q. You don't know which bridge they were on?

A. No.

Q. What kind of lights were they, electric lights or oil? A. I don't know.

Q. Did you see any other vessels coming in the harbor while you were standing there?

A. Oh, yes, these here local steamers.

Q. What steamer did you see coming in?

A. Oh, well, I didn't pay much attention to that. I think I see the "Sentinel" or whatever the name is.

Q. Did you make out her lights without any difficulty? A. Yes.

MR. HAYDEN: I object to that.

Q. (Mr. Lawrence Bogle) What kind of lights was she carrying?

MR. HAYDEN: What do you mean, the "Sentinel"? I object to that as immaterial.

Q. (Mr. Lawrence Bogle) What kind of lights was she carrying? A. The same as usual.

Q. Well, what? A. Running lights.

Q. Electric lights or oil lights?

A. Oh, I don't know what kind of lights.

Q. Do you know the difference in brilliancy between electric and oil lights?

A. Yes, if you get close enough you can—

Q. (Interrupting) Which is the brighter light?

A. Oh, I don't know which one. I prefer to use—

Q. (Interrupting) I didn't ask you that. I asked you which was the brighter light.

A. Well, of course depends on the candle power you are using; if you use candle power enough, of course the electric light is the brightest, and is too bright sometimes.

Q. Well, captain, did the "Strathalbyn's" lights appear to be oil light or an electric light, to you, as to brilliancy?

A. The brilliancy, I could take them for both, I should think.

Q. Would you say that that light was as brilliant as an ordinary electric ship's light as carried on these Sound steamers?

A. Well, I don't know. The light appeared to me as a good light; that is all I have got to say about it.

Q. Did they appear as good as the ordinary electric light carried by these Sound steamers? Have you ever seen the "Flyer" at night?

A. Yes, I have seen the "Flyer."

Q. Were the "Strathalbyn's" lights as good lights as hers? A. As good lights?

Q. Were they as good as the "Flyer's" lights?

A. I should think so, yes.

Q. Have you ever seen the "Indianapolis" at night?

A. I have been on board of her at night, I have seen her side lights.

Q. Were the "Strathalbyn's" lights as good lights as hers?

A. No, not in the distance I seen those lights. I have generally been on the boat. When I seen the "Indianapolis" they appeared awful strong.

Q. You saw the green light more than the red. Did you see the red light at all, captain?

A. Yes, I did.

Q. You would swear to that, would you? A. Yes.

Q. And you testify that from the position you were standing, a quarter of a mile ahead of this vessel, you saw both lights at the same time? A. Yes.

Q. You are sure of that, are you, captain?

A. Yes sir.

Q. This was over a year ago that this happened, wasn't it? A. Yes.

Q. You have observed a good many ships and ships' lights since then, haven't you? A. Oh, yes, quite a few.

Q. Why is this particularly impressed upon your mind at this late date, captain, that you saw both those lights at once? Was there anything peculiar about that that would impress it upon your mind?

A. No. It impresses a man's mind, you see.

Q. I say, was there anything peculiar about the fact that you saw both of those lights at once that would impress it upon your mind so that you remember it over a year later? A. No, not exactly.

Q. Did you ever notice that on any other vessel?

A. I generally pay attention to every ship.

Q. I understand that, but did you ever notice that in any other ship? A. Oh, yes; oh, yes.

Q. What other ships have you noticed it on over there in the last year? A. In the last year?

Q. Yes.

A. Oh, I never taken up any special names on any because they are generally deep-water ships that goes over there laying and makes ready to go to sea, you see.

Q. I understand, now, you never pay any particular attention to names, but you remember this ship distinctly, do you?

A. Yes, I do, I remember that.

Q. But you don't remember any other ship?

A. Not any names, no.

Q. Don't remember any other name of any other ship?

A. No, not taken note of any—any name.

Q. Were there any other ships in the harbor in the vicinity of the "Strathalbyn" on this night?

A. Not for anchoring.

Q. Well, were there any other ships passing back and forth?

A. Passing forth and back, yes. Not any steamers of any size, just these here local boats as I told.

Q. Did you get aboard this vessel the next morning after the collision? A. No sir.

Q. How did you make your examination of her light-boxes and stanchions and so forth?

A. I was laying right forward there and rowed around.

Q. You rowed around her?

A. Rowed around her about—I don't know how many times.

Q. Were you employed by anyone to make this examination. A. No sir.

Q. Out of idle curiosity? A. Yes sir.

Q. You did not go aboard the ship at all?

A. No sir.

Q. Now, you have testified that there was no difference between her cargo and the stanchions the day after the accident from what the condition was the day before the accident.

A. Not as I can know of, I didn't say—

Q. (Interrupting) Not that you know of.

A. You know I didn't measure or done anything of that kind. When I looked at the stanchion it appeared to me everything was all right, that is the way, and if there is anything wrong we generally see it.

Q. It appeared to you to be all right. A. Yes.

Q. In other words, the stanchions were up in position, that is about all you know, isn't it?

A. Yes, stanchions were—

Q. (Interrupting) You didn't examine them to see at all the day before?

A. I seen them, yes, but I didn't—

Q. (Interrupting) At a distance of four or five blocks? A. Yes.

Q. So you don't know whether they were in the same position or not, do you? A. No, sir.

Q. You testified they were.

MR. HAYDEN: I beg your pardon, he didn't testify any such thing; he testified that was his impression, that it was his understanding that they were.

Q. (Mr. Lawrence Bogle) You made no examination of the light-boxes, light-screens?

A. No sir, no. Have a look at them, yes, but I didn't go aboard and make any.

Q. You looked at them from the water in a row boat? A. In a row boat, yes, from forward.

Q. From forward?

A. From forward and all around.

Q. And were you in a position at any time where you were right straight ahead of this vessel in the row-boat, that you looked to see if the stanchions obstructed the lights?

A. Yes, I think I was, so far as I—I tried to.

Q. You tried to? A. Yes.

Q. You tried to get directly ahead of her in this rowboat? A. Yes.

Q. Would you swear that you were?

A. Oh, no. Oh, no, I had no compass or anything of that kind, but—

Q. (Interrupting) You have testified that there were no obstructions in the way of these lights, that the light-screens were all right. A. Yes, so far as—

Q. (Interrupting) Did you make any examination of them so that you know anything about that?

A. Well, I make the examination I have told you.

Q. You did what?

A. I made the examination I have told you, I say it was just rowing around in the boat and—

Q. (Interrupting) Did that examination enable you to testify, under oath, that those light-screens were all right and that there were no obstructions in the way of them?

A. No, no, not exactly, I could not do that.

Q. What time did you see this vessel the next morning?

A. Oh, first in the morning was about eight o'clock, half past seven or eight o'clock.

Q. Had they started to unload?

A. No, no, they put her on the beach first, you see.

Q. Was she on the beach when you saw her?

A. No, she was out to the mooring—to the buoy there.

Q. What was this longshoreman's name that you were talking to? A. I don't know.

Q. You don't know him, do you. A. No.

Q. What was the direction of the wind on that night? A. About south, I think.

Q. Have you ever talked to anybody about this case?

MR. HAYDEN: I object to that as immaterial.

A. Not specially, no.

Q. (Mr. Lawrence Bogle) Nobody especially?

A. No. I talked an awful lot about it the first days, of course, because I had—

Q. (Interrupting) Have you talked to anybody about it recently? A. No.

Q. Never talked to Mr. Hayden about it? A. No.

Q. Never had any conversation with Mr. Hayden about this case? A. The first day I seen him today.

Q. Today? A. Yes.

Q. Did you ever have any talk with Mr. Foss, the gentleman sitting next to Mr. Hayden?

A. I have talked with him once in a while.

Q. Once in a while? A. Yes.

Q. When did you first talk to him about this case?

A. The question if I had seen the things.

Q. I say when?

A. Oh, that is long ago, quite a long time ago.

Q. Do you know Mr. Foss? A. Yes, I do.

Q. How long have you known him?

A. Oh, I have known him for several years.

Q. Is your recollection any clearer of these events, since talking with Mr. Foss, than they were before?

A. What?

Q. Is your recollection any clearer, since talking to Mr. Foss, than it was before? A. Clearer? No.

Q. Did the fact that you saw both of those lights at the same time make any impression upon you at the time when you were standing upon the bridge?

A. No, not any.

Q. But it is very clear in your recollection now?

A. Yes sir, because we were specially talking about them, me and that longshoreman.

Q. You were specially talking about the fact that you could see both lights at the same time?

A. Yes, because you see sailors and longshoremen

always follow such things and questions and things come up.

Q. Why were you particularly talking about the fact that you could see both side-lights at the same time, is that anything unusual? A. Oh, no, not for me, no.

Q. But you were standing there talking about that fact, were you?

A. Yes, we were standing there chewing the rag.

Q. I mean were you talking about that particular fact, that you could see both lights at the same time?

A. Yes, sure, sure.

Q. This vessel was swinging back and forth all the time, wasn't she? A. Yes, sure.

Q. Isn't it possible, captain, or probable, that as she was swinging back and forth that you could see both lights, but not at the same instant,—she would change very quickly, wouldn't she, her position?

A. No, she don't need to change very quickly for to see both at the same time, it kind of run a long time and I can see both side-lights on a steamer when you are exactly dead ahead—right ahead of you.

Q. Yes, but if there are any obstructions in the way you could not see both of them at the same time, could you?

A. No, I don't think so, not if there was anything in the way on the amidships section. Of course if it was on the other section it would not have anything to do with the forward part.

Q. What I asked you was, she was swinging, her bow was swinging back and forth with the wind and tide? A. Yes.

Q. And you would see one light and you would see the other light? A. Yes.

Q. There would be a very small fraction of time between the times she would swing her bow back and forth so that you would see the different lights?

A. I can't—

Q. (Interrupting.) That is, you would see the green light and she would swing so that you would see her red light? A. Yes.

Q. And she would swing back and you would see the green light? A. Yes.

Q. And in those different exchanges there would be a very small fraction of time from the time the green light was shut out until you would see the red?

MR. HAYDEN: What do you mean by a small fraction of time, a second?

MR. LAWRENCE BOGLE: I will get at that.

MR. HAYDEN: I want an intelligent question.

MR. LAWRENCE BOGLE: It is intelligent to me, and, if it is to him, it is all right.

A. Well, I will tell you, I don't exactly know what you are meaning.

Q. (Mr. Lawrence Bogle.) Well, now, you say her bow was pointing to you? A. Yes.

Q. You say that you could see her green light?

A. Yes.

Q. And when her bow would swing over, her red light would come into view, wouldn't it? A. Yes, sure.

Q. Now, how long a time would it be that you could see both of those lights at the same time?

A. Oh, that was not very long.

Q. How long?

A. I don't know; but I seen them, that is all there is to that.

Q. Well, now, if the green light would be shut out and you would see the red light alone, how much space would it be from the time the green light was shut out before you could pick up the red light?

A. That is a thing, you see, I can't give you any answer to, because that is an awful—you have to have a chronometer if you are going to judge by the time that way.

It would be necessarily a—

Q. (Interrupting.) Would it be a half a minute?

A. A half a minute?

Q. Yes.

A. Well, I can't tell you that, you see, because sometimes the boat might lay there for a minute or two; you can see it probably—

Q. (Interrupting.) See both of them.

A. I would not say this one did, but it could do it and might lay there for five minutes; but I could see both lights.

Q. Did this vessel do that?

A. That is what I say, I don't know if this vessel did do that, but I did see both lights.

Q. At the same time? A. Yes sir.

Q. You are positive of that? A. Yes sir.

Q. Did you have any conversation about that with Mr. Foss? A. No, he never asked me that.

Q. Never asked you whether you could see both lights at the same time?

A. Oh, yes, if I seen both lights, he asked me about that, but not—

Q. (Interrupting.) Captain, you have testified here that you have had great experience in marine matters. I will ask you if you could see both the lights of a vessel, provided they were unobstructed, a distance of an eighth of a mile ahead of her.

A. An eighth of a mile ahead of—

Q. (Interrupting.) The vessel, provided you were directly ahead? A. Yes, you are supposed to do that.

Q. Could you see it at a distance of 200 yards ahead of her, if you were directly ahead? A. Sure.

Q. Could you see it at a distance of a hundred yards?

A. Well, it is getting closer, it is hard to tell; depends a whole lot on the width of the ship too, you see, when you get closer, but I think—a hundred yards I think you can see it.

Q. Could you see it standing on the ship's bow—could you see both of her side-lights?

A. No, I don't think so.

Q. Don't you know?

A. Well, if I stand on the ship's bow, that just depends on how far off the side light is, too.

Q. Depends upon how far the side-lights are from where you are standing? A. Yes.

Q. We will say—

A. (Interrupting.) Most ships I have been in I can see them.

Q. You can see the lights, standing on the bow?

A. I can see them.

Q. Both lights? A. Yes.

Q. Can you tell me of a single ship that you have

been in, that you could stand on her bow and see both lights? A. A single ship?

Q. Any one ship that you have been in, or that you have been on, that you could stand on the ship's bow and see both lights?

A. Yes, I can tell you a whole lot of sail ships I have been in, laying out on the jib-boom making fast sails during the night I could see both side-lights easy as anything. Of course if you look clean straight on the boat you must remember that you could not see any of them.

Q. Of course if you were looking at the cabin you could not see the lights?

A. No, that is impossible, but if you—

Q. (Interrupting.) If you look for the lights themselves—

MR. HAYDEN: Interrupting.) Let him answer, will you?

Q. (Continuing.) —can you see both of them?

A. Yes, if I just look at one side I can see, but if I look straight on the boat it is not possible; but a little bit one side, you can see both lights. Oh, no, that would not exactly do, to see them that way; that is about the time to quit, too.

Q. What do you mean by that?

A. I say when you get them that close—when you get the side-lights that close, it is about time to quit.

Q. What time do you say that it was that you were on the Commercial Dock looking at these lights?

A. Between five and six o'clock.

Q. Is that the nearest you can get to it? A. Yes.

Q. Do you know when the vessel left that night?

A. No, not exactly.

Q. Was she still stowing her cargo. A. Oh, no.

Q. She had finished doing that, had she.

A. She was about through?

Q. The cargo was all stowed?

A. Yes, I think so. Yes, if they didn't make any extra after dark.

REDIRECT EXAMINATION.

Q. (Mr. Hayden.) Captain, what did you do when you were out in your row boat to judge that you were

directly ahead of the "Strathalbyn," how did you make your mind up that you were directly ahead of the "Strathalbyn," when you say you were looking to see whether the stanchions obstructed the light-screens or not? A. I had the two masts in line, you see.

Q. Is that how you judged?

A. Yes, and of course the bow of the boat, you could not very well find that.

Q. Did you look along the stanchions or anything of that kind?

A. No, not any special. I looked special on the bridge and see about the screens. Of course this happened at night, you see, and I knew there was a light proposition, a pretty bad accident, and I had a job of having the man in my boat who was killed, so that boat was more in my mind than anything else.

Q. You said, captain, it was hard for you to tell how the tide was running where the "Strathalbyn" was. Is that what you mean, it that what I understand you?

A. Yes, that is hard to tell.

Q. What do you mean by it is hard to tell, why is it hard to tell?

A. It depends upon how Puyallup River runs, you see, the ebbs and eddy coming there. I have not hardly seen the same tide in Tacoma two times.

Q. Captain, were you acquainted before this accident with the owners of the "Strathalbyn," or the captain or the pilot of her?

A. Not know anybody; I don't know anybody yet.

Q. Did you know anybody on the "Virginian"?

A. Not at all.

Q. Don't know the pilot on her? A. No.

Q. Don't know the pilot on the "Strathalbyn"?

A. No.

Q. (Mr. Lawrence Bogle.) Beecher?

A. No, no. That probably have been some others, but I didn't went through the paper to see, I didn't see who was pilot on either one of them.

Q. You have not any interest at all in the "Strathalbyn", have you? A. No. Too bad I haven't.

RE-CROSS EXAMINATION.

Q. (Mr. Lawrence Bogle) Captain, how far were

you ahead of the "Strathalbyn" when you saw both of her masts in line?

A. Oh, different distances. I put my stern to her mast so good as I could and looked and—

Q. (Interrupting) How far was your row boat from her bow?

A. Oh, about a couple or three hundred yards.

Q. A couple or three hundred yards?

A. Up to three hundred yards, the longest, because I know there was some kind of mistake and—

Q. (Interrupting) How much of a list did she have at that time? A. Oh, she was laying way over.

Q. How much of a list?

A. 45 degrees, low water, coming out

Q. Captain, in the conversation with Mr. Foss, did he tell you that he had two suits pending against the "Virginian" on account of this collision? A. Suits?

Q. Yes. A. No.

Q. Did he tell you he was interested in the result of this litigation in any way? A. No.

Q. Didn't he mention that to you. You know Mr. Foss is an attorney, don't you? A. Yes, I know it.

(Witness excused.)

(Filed April 5, 1913.)

DEPOSITIONS OF WITNESSES WM. HENRY
LOGAN AND JOHN CAMERON.
STIPULATION.

It is hereby stipulated and agreed between and by the respective parties that depositions may be taken at this time on behalf of the respective parties before C. F. Davie, Esq., a Notary Public, in and for the Province of British Columbia, at Victoria, British Columbia, and may be transcribed and read in evidence in behalf of the respective parties with the same effect as though said depositions had been taken before the UNITED STATES COMMISSIONER to whom the taking of testimony in this case was referred; it is further agreed that the signatures of the witnesses to the testimony as transcribed are hereby waived and that all objections as to the time and manner of taking the depositions are hereby waived and the depositions may be read in evi-

dence with the same effect and subject only to the exceptions taken at this time.

WILLIAM HENRY LOGAN, having been duly sworn, was examined by Mr. Hayden and deposed and testified as follows:

1 Q. What is your name? A. William Henry Logan.

2 Q. What is your business?

A. I am a special surveyor for the Salvage Association, London.

3 Q. You reside where? A. Victoria.

4 Q. And you are one of the gentlemen who were present at the time the Steamship Strathalbin was measured in Victoria? A. Yes.

5 Q. Who else was present at that time?

A. Mr. Frank Walker, Mr. Charles Jack, the Captain of the Steamer—there were others, who, I don't remember—the chief Officer holding the tape.

6 Q. And the attornies?

A. Mr. Hayden and Mr. Bogle.

7 Q. I want you to look at this blue print and see if that is your signature?

(Blue print marked Claimant's identification, 5-5, handed to witness.)

A. Yes, that is my signature.

8 Q. Has anything purporting to be an error in connection with that blue-print been called to your attention—answer that Yes or No? A. Yes.

9 Q. What have you got to say as to whether or not measurements, any measurement in that blue-print, does not correspond with the measurements taken at that time that Mr. Jack and Mr. Walker and Mr. Bogle and myself and the Captain and the Chief Mate were present?

A. (Indicating on blue-print) This 46'-10" (Forty-six feet ten inches) mentioned here is the measurement we took between the brackets on which the lights hang; this 4½ (Four and a half) is the addition which goes to the flame of the light; that makes 47'7 (Forty-seven feet seven), that is the measurement we took. These measurements on the main-deck I haven't got, I know we took them every two

stanchions, those I don't remember and I haven't got any notes of them.

- 10 Q. What does the blue-print show in regard to the measurements of 46'10 (Forty-six feet ten) ?

A. To me it would show Forty-six feet ten and four and a half inches, that is exactly what we got, that is exactly the measurements given.

- 11 Q. Does that blue-print show the brackets?

A. No, does not show the brackets.

- 12 Q. Where were the brackets you referred to?

A. The brackets on the outside part of the fore and aft portion of the screen.

- 13 Q. When you speak of screen, what screen do you refer to?

A. The regular light screen on the lower bridge.

- 14 Q. Now, Captain, look at the line that is dropped down from the light bracket to the arrow-head and the line on which 46'10" is written, where the words "46'10" Between Blocks on forward end of Screens" and so forth, and see if that line is dropped down from the light bracket or where in your opinion it is dropped down from?

MR. BOGLE: I object to that, the blue-print itself shows where it is dropped from.

A. I don't know what the intention is here, it would appear to be drawn from the fore and aft part of the screen, it appears to me to be drawn from the inside of the blocks, that is the way I would read that, that that was drawn from the inside of the blocks of these lights or somewhere about the brackets.

- 15 Q. Do you remember at the time of taking these measurements whether or not Mr. Walker and Mr. Jack and yourself agreed as to the measurement Forty-six feet ten?

MR. BOGLE: I object to the question as leading.

A. Do I have to answer that?

- 16 Q. Yes?

A. It was me that held the tape, I called out "Forty-six ten", they both put it down.

- 17 Q. Did you have any subsequent checking of notes with Mr. Walker and Mr. Jack or both of them

where there was any agreement as to the Forty-six feet ten?

MR. BOGLE: What notes, the witness has stated that he had no notes.

MR. HAYDEN: He just referred to the notes.

A. I did not have any understanding with them that was to be laid on the blue-print; I did not see those notes they had of the measurements I called out.

MR. BOGLE: I object to any reference to the notes if he did not see the notes.

- 18 Q. The measurement you got between brackets to the light screens was Forty-six feet ten?

A. Forty-six feet ten.

CROSS-EXAMINED BY MR. BOGLE.

- 19 Q. You say that you represent the Salvage Association of London? A. Yes.

- 20 Q. Do you represent either of the parties to this suit, either the owners of the Strathalbin or the owners of the Virginian?

A. No, I am for the Underwriters only.

- 21 Q. Did you represent either of the parties at the time these measurements were taken? A. No.

- 22 Q. Do you remember why you happened to go out that day?

A. I was asked to go down there, if I remember rightly, by Mr. Jack.

- 23 Q. Mr. Jack is the special representative of the owners of the Strathalbin?

A. Yes; I was asked to go down there—I don't know whether I mentioned I went down with Mr. Walker.

- 23 Q. At Mr. Jack's request?

A. I think it was at Jack's request.

- 25 Q. Mr. Walker didn't request you to go down?

A. I don't remember that he did, I don't think so, I don't remember, I am not very clear on that point.

- 26 Q. Did you take any notes of the measurements?

A. No, I did not take any.

- 27 Q. You did not take any notes at all?

A. I held the tape, Walker and Jack took the notes.

- 28 Q. Which end of the tape did you hold?

- A. I held the measuring end right through.
- 29 Q. Who held the other end?
A. The Chief Officer of the ship.
- 30 Q. You took no notes of any of the measurements?
A. No, I did not take any notes of the measurements that were taken. That measurement between those two brackets was taken several times.
- 31 Q. Do you at this time remember anything of the measurements which was taken on that day?
A. Only the first measurement on the main deck. Forty-eight feet eight inches.
- 32 Q. Where was that?
A. About two feet forward of the bridge, on the deck.
- 33 Q. Between what points?
A. Right across the ship.
- 34 Q. Was that with the tape straight from the inside, from the inside of the bulwark rail on the starboard side to the inside of the bulwark rail on the port side?
A. I am not very sure. I think that was the extreme breadth over all, over the top of the rail.
- 35 Q. The Strathalbin is well-decked?
A. She has two wells, what we call a three-island ship.
- 36 Q. Her rail extends some little distance above the deck? A. Yes, four feet above the deck.
- 37 Q. And the top of the rail itself —
A. The top of the rail is formed by a bulb angle bar, half-inch bar, four inches wide, the plate comes up outside of that.
- 38 Q. From the inside of the bulb rail to the outside of the ship, the overhang of that rail?
A. About four inches, looks about a four-inch bar.
- 39 Q. As I understand you, this measurement two feet forward of the bridge includes the four inches on either side?
A. Yes, extreme breadth of the ship.
- 40 Q. So the measurement would be four and a half inches less on either side?
A. Yes, but I am not quite sure as to that four

inches,—may have been five, I am sure it included that.

- 41 Q. Do you remember any of the other measurements made?

A. No, I don't remember how they went along, there were a good many of them.

- 42 Q. Do you remember any of the measurements besides this Forty-six feet ten?

A. I think across the forecastle was about Forty-two; I am not sure, that was about the only other one I remember, either Forty or Forty-two.

- 43 Q. You signed this blue-print, Claimants exhibit 5-5? A. Yes.

- 44 Q. Did you check over the notes before you signed it?

A. That was brought to my office by Mr. Jack and he called from his note-book and I went over the measurements on the blue-print.

- 45 Q. In signing, certifying it as correct, you didn't take them from your own knowledge, but as I understand, you just checked with Jack's notes?

A. Just checked with the notes in his book; they were much fresher in my memory than they are now.

- 46 Q. That is about a year ago?

A. Yes, quite a year ago; I was perfectly satisfied they were correct at that time.

- 47 Q. Not checked from the measurements you took, but merely certifying Jack's measurements?

A. Of course I concluded he put down what I called out; but these measurements across the forepart forward of the bridge and on the bridge are absolutely sure of, they were taken several times over.

- 48 Q. You are not sure of the other measurements?

A. Except that one across the forecastle, either Forty or Forty-two.

- 49 Q. You are not as sure of any of these measurements as you are of the Forty-six feet ten?

A. No, we didn't take any of these so often, that is what impressed it upon my mind, we went at that two or three times.

50 Q. Do you remember any of the other measurements taken on the lower bridge?

A. Some vertical measurements taken there but I am not quite sure of them; I think it was eighteen feet up to the bridge rail.

51 Q. What was your understanding of the purpose of taking these measurements on that day?

A. My understanding was, to see whether the lights would show across the bows or ahead, ahead, or how.

52 Q. Did you understand at that time Mr. Walker was representing the Virginian?

A. Representing the Virginian?

53 Q. Yes? A. I don't know that I did.

54 Q. Mr. Frank Walker?

A. Yes, I would call it he was representing the Virginian.

55 Q. Did you know at that time Mr. Jack was there representing the Strathalbin?

A. He was the special representative of the owners.

56 Q. I mean at this particular time?

A. Yes, in all things Jack was representing the Strathalbin.

57 Q. Did you have any knowledge of an agreement between the attorneys in this case, or between the surveyors in making these measurements? A. No.

58 Q. You were not a party to that agreement?

A. No.

59 Q. Did you have anything to do with the producing of these measurements on the blue-print or tracing? A. Nothing at all.

60 Q. When did you first see the tracing or blue-print, the tracing which the blue-print, claimants exhibit 5, is?

A. When Mr. Jack brought it to my office several days after the measurements were taken.

61 Q. Was it within a week after the measurements were taken?

A. Some few days, not very long, just previous to his leaving whenever that was, I don't remember when he left.

62 Q. Was that blue-print in the exact condition as you see it now?

A. There appears to be an erasure, whether there was anything there or not, just at the top there, on this line: below "bridge".

63 Q. Did you notice that at the time?

A. No, I did not notice it.

64 Q. Did you notice anything at the time you signed this blue-print?

A. No, I was perfectly satisfied the measurements were correct.

65 Q. Did you notice anything to be there where you say now appears to be an erasure?

A. No, I don't call to memory there was.

66 Q. When did you first notice there had been an erasure there? A. Just now.

67 Q. First time you had ever seen that erasure?

A. Just now.

68 Q. Ever seen anything written across there where that erasure appears to be?

A. No, I don't remember that.

69 Q. Otherwise, was that blue-print in the same condition as you see it now?

A. As far as I know it was; I don't remember that blue-print very clearly, only that I checked it up; just exactly what was on it I would not be prepared to say.

70 Q. Do you remember what figures were put on it by you and Mr. Jack?

A. Yes, I remember they were taken out of his book quite clearly, these figures, Forty-six feet ten, Jack wrote these figures, I didn't, these were the figures agreed upon between he and I; I am not clear whether these ink figures were there or not at that time, whether he put them on, or how, I don't remember that.

71 Q. Do you remember any of the other ink figures?

A. Only my own signature; Jack signed it and I signed it.

72 Q. There are some white printed figures and some ink figures, do you remember whether the ink figures were there at the time you signed it?

A. I have not any very clear recollection, but my opinion is, my idea is, that these spaces were left vacant until Jack brought the blue-print to my office, and, as we checked them over, so he wrote them down; he first called them out to me, I have got an idea he wrote those down, but I am not clear on that point at all.

73 Q. I don't notice the figures 48.8 you spoke of on this blue print?

A. You don't notice that? I think you will find that was the first measurement across the ship.

74 Q. But it was not put on the blue-print?

A. I don't know whether it is or not.

75 Q. I wish you would state just when this alleged mistake in this blue-print was first called to your attention and by whom?

A. Mr. Hayden was the first I heard speak of the error in the blue-print.

76 Q. What time of the year, as to the length of time, when that blue-print was signed by yourself?

A. I can't just remember, I don't know whether one month or two—I cannot remember.

77 Q. Do you remember when these measurements were taken?

A. I am not sure of the date, taken while she was laying in dry-dock at Esquimalt.

78 Q. And the blue-print was presented to you by Jack within a week?

A. Presented to me before he left; I can easily find out when he left, day or two before he left.

79 Q. You could not give near the approximate time this was called to your attention?

A. No, I could not tell you that.

80 Q. How was your attention called to it?

A. The first I heard of it I spoke to Mr. Walker.

81 Q. How was your attention first called to it?

A. I cannot tell you how I first came to hear it.

82 Q. You say called to your attention by Mr. Hayden.

A. Mr. Hayden first spoke to me, he told me there was an error in the blue-print, he wrote to me, I have got his letter in the office—

MR. HAYDEN: Get the letter will you, please;

Mr. Bogle, I want all the correspondence, bring it down, which you had regarding that.

THE WITNESS:—whatever it was you wrote me.

MR. BOGLE: I don't see any necessity for all the correspondence, the only point is the time.

MR. HAYDEN: I have got a copy of the letter which will answer the purpose we want it for, I think I have.

83 Q. While Mr. Hayden is looking for that letter, please state your connection with this blue-print from the time it was signed by yourself and Mr. Jack till it passed out of your possession?

A. I am not sure whether I took that to Mr. Walker or not, but I think I did, and he signed it.

84 Q. Do you remember when that was?

A. That was before Jack went also.

85 Q. When you took it to Mr. Walker did he compare the blue-print with his notes?

A. I am not very clear on that point either.

86 Q. Mr. Walker signed the blue-print as being correct, did he not?

A. Yes, I am not very sure about that transaction; I would not like to say whether I took that blue-print to Mr. Walker or not, I think I did.

87 Q. After Mr. Walker signed the blue-print did he keep it, or did you take the blue-print?

A. That transaction I don't remember clearly at all; I am of opinion that I took that over and got it signed and sent it to Jack; I don't know whether I sent it to Jack or forwarded it to Mr. Hayden.

88 Q. Is it not a fact, that after Mr. Walker had signed that blue-print you personally took it over and gave it to Mr. Hayden? A. I?

89 Q. Yes, in Tacoma.

A. No, I don't think so, I don't remember having done anything of that kind.

90 Q. Do you remember what happened to the blue-print after Mr. Walker signed it? A. No, I don't.

91 Q. Do you remember whether you left it with Mr. Walker and he kept it?

A. I don't remember whether I left it with Mr. Walker or what I did with it, my impression is I

sent it to Jack; if Jack was in Victoria I would take it. I am not clear on that point, or whether I took it to Walker at all or not, I don't remember.

- 92 Q. Do you remember your conversation with Mr. Walker at the time you took it to him?

A. No, I am not clear as to that.

- 93 Q. Do you remember promising Mr. Walker you would send him a copy of the blue-print immediately?

A. Let me see—I think you are right, I think that is right.

- 94 Q. Do you remember Mr. Walker making a demand for a copy at that time?

A. Yes, he wanted a copy of the blue-print.

- 95 Q. After that time did you make any efforts to get a copy of that blue-print for Mr. Walker, and if so, state what efforts you did make?

A. I have got an idea that I telephoned the B. C. Marine Railway, and they told me they didn't have any other copy.

- 96 Q. Did they tell you where the originals were?

A. No, they said they didn't have a copy and did not have a tracing; they they did not tell me where the original copy or the original tracing were; as far as I can recollect, I think they told me that Mr. Jack had taken them home.

- 97 Q. Do you remember writing to Mr. Walker telling him that Mr. Jack had taken the tracing and all of it East?

A. I don't remember. If I wrote to him I will have the copy of it in the office.

MR. HAYDEN: I think the best thing to do is to have Mr. Logan get the correspondence on the subject if you want to get it into the record and so that he knows what he is talking about.

THE WITNESS: I am not very clear.

MR. HAYDEN: I suggest I postpone his examination until he gets the correspondence, and then if you ask him about letters and things of that kind, he will probably be in a better position to answer.

MR. BOGLE: He can get the two letters I have asked him about later.

MR. HAYDEN: Before you go ahead—I will send you copy of the letter I wrote to Mr. Logan on the subject which I think is the first letter I wrote to him. Here is my telegram to Mr. Logan—read the whole business, I haven't anything to keep back of that at all; I want the record to show that I am giving all the letters I have had with Captain Logan to Mr. Bogle as well as the telegram.

MR. BOGLE: We will stipulate then the first was as to the original error, was a letter of the 13th of April, 1912.

MR. HAYDEN: If that is all you want to put in, that is all right.

98 Q. Do you know when the Strathalbyn left here after the collision, after she was repaired?

A. No, I am not clear on the date; that collision occurred in January, January 12th, and she got over here about the end of the month; it would be in April I think, I am not sure.

99 Q. Referring to Claimants exhibit 5-5, is that blue-print absolutely correct except the one possible explanation you have noted?

A. Yes, I would say it is correct.

MR. HAYDEN: I would like if there is any other measurement you have in mind as not being correct, I would like you to indicate it to Mr. Bogle, so that you may have an opportunity of answering anything you may have in mind?

MR. BOGLE: I thought the blue-print is correct as it stands excepting the one error.

100 Q. Is the blue-print presented to you before this hearing—you had an opportunity of examining it?

A. Yes.

101 Q. You saw it? A. Yes, I saw this.

102 Q. You examined it before the time of the hearing?

A. Yes, I saw this blue-print in Mr. Hayden's hands,—yes.

103 Q. What I want you to state is whether you can state it is correct, that you have gone over it?

A. I have not looked at the figures at all, have not examined it.

104 Q. You state this measurement Forty-six point ten between blocks is not correct?

A. That 46.10 we got between the brackets, I am positive of that measurement, and that is the only measurement on the blue-print I would swear to, that and the four and a half inches from the bracket to the flame of the light.

105 Q. You are absolutely positive of that too?

A. Yes, Forty-seven feet seven was the conclusion we arrived at between the flames of the lights.

106 Q. You are positive of that measurement?

A. Yes, I am positive of that measurement.

107 Q. Did Mr. Jack have any such measurement when you compared the blue-print with his notes?

A. We agreed on that.

108 Q. Did he have a measurement Forty-seven feet seven?

A. Four and a half inches was the size of the light, Forty-six feet ten was the measurement we got between the brackets.

109 Q. You are absolutely positive of Forty-six feet ten, and four and a half inches between the blocks?

A. The lights, not to blocks, measurement from the bracket to the flame of the light, four and a half inches.

110 Q. Would you just tell me how that measurement was taken?

A. Taken with a tape line on the bridge, bracket to bracket.

111 Q. I mean the measurement from the bracket to the centre of the flame?

A. That is the measurement of the lamp; I did not measure the lamp, the Captain of the ship measured the lamps, the lamps were not there, that four and a half inches was not taken, it was an allowance, that measurement was not taken while we were on that bridge—the measurement we took was Forty-six feet ten inches.

112 Q. No four and a half inches measurement taken?

A. No, not taken at all; four and a half inches was the Captain's statement of the size of his lights—we know that is—

MR. BOGLE: I move to strike that out as not being responsive.

113 Q. This blue-print shows a measurement of four and a half inches?

A. Four and a half inches, it states to blocks.

114 Q. Is the width of the block and the distance from the bracket to the flame the same?

A. They are the same, the flame would be a little outside the block, that four and a half inches would be the regular measurement; these light-screens according to the International rules project three feet forward of the light.

115 Q. I don't think we quite understand each other; you stated that the four and a half inches was the measurement from the bracket to the centre of the flame; now you say the block projects four and a half?

A. Four and a half inches to the screen, that is right, both of those statements are correct.

116 Q. You did not measure the distance from the bracket to the centre of the light, what you mentioned was from the forward end of the light screens?

A. Yes, four and a half inches, we did not measure the lights, the lights were not there; they would be about,—the outside of the blocks would be about,—the centre of the flame. I am not just sure; the centre of that block would be the inside part of the flame, the outside part of the block would be the inside part of the flame because the bracket would cause the lamp to stand out a little.

117 Q. How does this light screen, the inside board of the light screen,—is that parallel with the line of the ship? A. Yes.

118 Q. How far does that light board extend from the outboard side of the light screen?

A. It is off-set about an inch.

119 Q. The distance from that bracket to the centre of the flame would not be the same as the distance, the measurement of the forward block?

A. I say the inside of the flame would probably be the outside of the block, just about.

- 120 Q. As a matter of fact you don't know where the flame of this lamp, the lamp was not there?
A. The lamp was not there.
- 121 Q. The only thing you had to go by is the Captain's statement that it was four and a half inches from the side of the lamp to the centre of the flame?
A. No such statement was taken at the time.
- 122 Q. That was put on there from the Captain's statement?
A. No, that is the statement there, the measurement of the blocks.
- 123 Q. You say the forward end of the block, that is the outside end of the forward block, would not be the centre of the light?
A. The centre of the light, would be in my opinion, the outside of that, on account of the off-set; I did not see the lights, I only know from my own general knowledge what a light is, they are all fitted one way according to regulations.
- 124 Q. As far as you know, Captain, has this light ever been measured?
A. I don't know anything about the light, I only know what the Captain told me.
- 125 Q. This measurement 47.7 is merely surmise on your part and what the Captain told you?
A. Outside of the 46.10, the 46.10 I am sure of.
- 126 Q. Was any measurement 47.7 taken that you know of?
A. No, there was nothing to measure to for 47.7, only the four and a half inches of the blocks.
- 127 Q. Do you think this blue-print is incorrect?
A. No, I don't think it is incorrect, that is in my opinion, is to the centre of the flame.
- 128 Q. If the flame projected an inch out beyond the forward end of the light screens?
A. Was an inch outside the blocks? If the Captain's statement of four and a half inches was correct, the flames are 47.7 apart.
- 129 Q. The only measurements you know of are 46.10, and four and a half inches, as shown by this blue-print?

A. Yes, I would call it correct, I don't see anything wrong with it.

130 Q. You say the measurements on the deck were taken every two stanchions?

A. I mean the bulwark stanchions.

131 Q. How frequent are these stanchions?

A. About every eight feet—they are four feet apart.

132 Q. Did not you understand at the time these measurements were taken they were taken for the purpose of ascertaining one point, as to whether or not these lights were obscured by these stanchions?

A. I knew that was one point of view, as to whether or not the light would show across the bow, or whether it would show, or whether it would be obscured—the whole thing was in my mind.

133 Q. Would not that all depend upon the measurement between the port and starboard-side on the lower bridge, that was the measurement you were trying to get at?

A. Yes, that was the measurement we were trying to get at.

134 Q. The lamps were not there at the time you measured? A. The lamps were not there.

135 Q. Do you remember several different measurements were taken to try and arrive at the correct distance between those two lights?

A. Measured it two or three times over.

136 Q. You talked of how to get that correct?

A. There was some talk what was the right thing to do.

137 Q. Do you remember you suggested yourself it was useless taking all these different measurements when you had the measurement right there, that the distance between the forward block of the light screen on the starboard-side to the forward block of the light screen on the port-side would be between the centre of the lights?

A. I was not thinking all together about the centres of the flames, that is the distance between the centres of the lights.

138 Q. Did not you suggest that measurement being taken?

A. I don't remember, I might have done; I don't remember that measurement was taken; it is quite likely I would suggest such a measurement.

139 Q. Do you know whether or not, Mr. Logan and Mr. Jack agreed upon the different measurements?

A. Mr. Walker and Mr. Jack?

140 Q. Mr. Walker and Mr. Jack, as to the different measurements taken by them?

A. I heard no disagreement, they both put them down as I gave the figures out.

141 Q. Were you present when they compared these measurements?

A. I don't remember having them compared.

142 Q. Captain, what is the purpose of the blocks on the forward end of the light screen?

A. They are put there to prevent the light being seen across the bows.

143 Q. Put there for that purpose, so that the light will be seen right dead ahead, is not that correct?

A. That is correct; there was a time when they were removed for the purpose of doing away with what Captain Murray called his dog lane theory, but they were not approved and were replaced.

144 Q. Do you remember having a conversation with Mr. Walker here in Victoria sometime after he had signed this blue-print, during the course of which he asked you for a copy of this blue-print?

A. I know that Walker and I did talk about that blue print; he spoke to me about not having a copy and was much annoyed at not being able to get it.

145 Q. Do you remember the conversation to that effect, here in Victoria?

A. We had a conversation here in Victoria once or twice—I know it was more than one occasion.

146 Q. Do you remember telling Mr. Walker blue-prints were being prepared, were not dry, and you would furnish him with a copy before he left Victoria?

A. No, I don't remember having told him that, but I might have been under that impression; I have got an idea there was something to that effect, but I am not clear on that either.

147 Q. You were in Tacoma after the collision, and somewhat active in looking after the Strathalbyn?
A. Yes, I was on board the Strathalbyn while she was discharging and pumped out, while she was at the docks and until she was finally brought here to Esquimalt I was with her all the time.

148 Q. You were in daily conversation with Mr. Jack about the Strathalbyn?

A. No, Mr. Jack was not there until just previous to her coming over to Esquimalt, I am not sure how many days, two or three days.

149 Q. Prior to Mr. Jack arriving were you in charge as to advising as to repairs, and so on?

A. No, the Captain was in charge, I was watching the interest of the Underwriter, I was representing the London Underwriter on the Strathalbyn.

150 Q. Have you had any conversation recently with Mr. Walker about this blue-print?

A. No, Mr. Walker and I have not talked about that blue-print for many months.

151 Q. You had several conversations some time ago, some months ago?

A. Yes, about the time Mr. Hayden wrote me a letter.

152 Q. What was your interest in the affair?

A. My interest in the affair was really none; I was very sorry I had been mixed-up in the measurements at all, if you ask my candid opinion; I had no interest in the matter at all, not in these measurements.

RE-EXAMINED BY MR. HAYDEN.

153 Q. As a matter of fact, the Underwriters that you represent and had insurance on the Strathalbyn, also are the Underwriters who had insurance on the Virginian? A. That is correct.

154 Q. So from the standpoint of representing the Underwriters on the Strathalbyn does not in any way prejudice your influence in this matter?

A. No, I was also acting for them on the Virginian at the same time, and attended to the drawing-up of the specifications and letting of them on the Vir-

ginian in conjunction with my confrere, Mr. Gardner, of San Francisco.

- 155 Q. So far as the Strathalbyn and Virginian was concerned you were perfectly indifferent?

(Mr. Bogle objects to Counsel cross-examining his own witness.)

A. Absolutely indifferent.

- 156 Q. Are you familiar as to the instructions for surveys, instructions as to lights and sound signals, published by His Majesty's Stationery Office?

A. I am quite familiar with the International Regulations which will probably be contained in that book. I don't know whether it is anything different.

- 157 Q. Are you familiar with Rule 22, or Section 22, subject, Screens?

MR. BOGLE: What is this book?

MR. HAYDEN: Issued by the Board of Trade, England; Instructions as to Surveys, lights, and sound signals, London, published by H. M. Stationery Office, and printed by Darling & Sons, Limited, Bacon Street, E.

Q. —Are you familiar with the Rule that reads:—“Screens of side-lights, Rule 22, Section 22, Screens. The screens of side lights, the length of which shall not be less than 36 inches from the flame to the chock, or its equivalent, are always to be placed parallel to the line of the keel, and the light so screened that the forward edge of the screen, or chock on it shall be in a line parallel to the keel and the inside of the wick”?

A. That is what I have stated already.

- 158 Q. What you intended to state in your testimony?

A. That the light in the lamp and the outboard edge of the chock—

- 159 Q. The inside of the wick of the lamp, the inside edge of the wick of the light, and the outside edge of the chock and the forward edge of the screen, shall be on a line parallel to the keel?

A. I have already shown that they should be a little outside of the block.

MR. BOGLE: I object to this as immaterial to this case; I also object to Counsel reading any statement

from this pamphlet into the record unless that is from the Board of Trade.

A. As far as that particular ship is concerned I was absolutely satisfied the screens were constructed in accordance with the regulations.

MR. BOGLE: I ask that that be stricken out as not responsive and as a conclusion of the witness.

160 Q. Did you ever see that regulation anywhere, a similar regulation to that anywhere?

A. Yes, I am more familiar with it in the rule of the road, that is the regulation for construction, and that is used by Surveyors and builders.

161 Q. I want to call your attention to this blue-print and call your attention to the distance 48.7, that is on the figure on the blue-print top of which is marked, "Bridge front", and is just back of the picture of the chocks and ask you to notice that that measurement is taken apparently on this blue-print from the inside of the rail?

MR. BOGLE: I object to that as cross-examination of his own witness.

(The witness did not answer.)

162 Q. As I understood your testimony you said that you held the tape and as you recollected it, the measurement was taken from the outside to the outside of the rail?

A. The extreme breadth of the ship, that was the way I recollect it, that is what I have in mind.

163 Q. You know you got a measurement of forty-eight feet eight inches?

A. Forty-eight eight inches was the first measurement; outside of that I don't recollect the subsequent measurements as we went along except that one across the forecastle, forty or forty-two, that I am fully confident of, that was on the forecastle deck.

MR. HAYDEN: Mr. Bogle, do you want Captain Logan to produce this letter?

MR. BOGLE: For the purpose of ascertaining the date I wanted, the date he was first notified by Mr. Hayden or informed by Mr. Hayden, there was a

mistake in the blue-print, it was stipulated that was April 13.

THE WITNESS: It was a hard job to get it into my mind that there was a mistake in the blue-print, or it is a hard job to show me yet there was a mistake in blue-print, I am of opinion the measurements were right, forty-six feet ten, and four and a half inches.

164 Q. I want you to explain further what you mean by the blue-print being right when it is forty-six feet ten?

A. And four and a half inches it distinctly states.

165 Q. I want you to explain to me why it is right when this blue-print shows four and a half inches to be the width of the block and the stars—I want to call your attention to these stars—these stars are from the outside to the inside, the block there is measured according to this blue-print is four and a half inches wide, this line runs down from the outside of the block (indicating on exhibit 5-5)?—

MR. BOGLE: I object to this as leading and, further object to this testimony as being improper cross-examination of his own witness—he has stated several times what he understood.

Q. (Contd.) Have you taken that into consideration?

A. I don't know whether he means that for the outside of the block or not; these measurements fit in with what we took, and I concluded that was correct.

166 Q. Suppose the draughtsman who made that intended that to be the distance between the outside of the block, the distance between the outside of the block is forty-six feet ten?

A. Between the outside of the blocks, no.

167 Q. Then if the draughtsman intended that line to drop on the outside of the block and forty-six feet ten to represent the distance between the port screen block and the starboard screen block, is it right or not? A. It is wrong—

MR. BOGLE: I object to this as leading and not proper re-examination; I would prefer to have Cap-

tain Logan's testimony rather than have Counsel testify for him.

A. (Contd.) It would be wrong in that case, the distance I have already stated.

168 Q. If you have got anything further to say about that measurement I wish you would say it.

A. I have said all I have got to say, that the extreme measurements in my opinion are Forty-seven feet seven, the measurements we took between the brackets are Forty-six feet ten.

MR. HAYDEN: You wanted another letter, was it not?

MR. BOGLE: No, I asked the Captain if he remembered writing to Mr. Walker to the effect that Jack had taken all the tracings and blue-prints back East with him.

THE WITNESS: I am not sure; the letter will be in my file, you are quite welcome to it.

MR. BOGLE: I just wanted to find out whether you remembered it.

THE WITNESS: I am not clear about that letter.

MR. HAYDEN: There is nothing you want the Captain to produce, is there, that is what I am getting at; I don't want the Captain to overlook producing anything you have asked to have produced at this time.

MR. BOGLE: I would like to have the Captain produce for inspection his correspondence on the question of this measurement of Forty-six feet ten.

MR. HAYDEN: If you, Captain, will get all the correspondence with me, Walker, Jack, or anybody else.

THE WITNESS: Or anybody else, you shall have it.

BY MR. BOGLE:

169 Q. Do you know what the draughtsman meant when he made this blue-print beyond what the blue-print shows itself? A. No, I don't.

170 Q. This measurement Forty-six feet ten has been called to your attention a good many times since it was taken?

A. No, I discussed it with Walker and Walker

agreed with me on the Forty-six feet ten—Forty-seven feet seven.

MR. BOGLE: I object to Mr. Walker, his testimony has already been taken and he absolutely does not agree with it.

THE WITNESS: I am very much surprised as to that.

MR. BOGLE: I object to that as incompetent.

171 Q. This measurement has been called to your attention? A. I talked it over with Mr. Walker.

172 Q. None of these measurements have been called to your attention since that time?

A. No, none of them.

173 Q. The only measurement that you know is that measurement of Forty-six feet ten?

A. Between those brackets.

174 Q. Which you think was between those brackets, and the measurement of four and a half inches between these blocks?

A. Yes on each side and the blocks are four and a half inches.

175 Q. Are these fastened to fastened to the vessel on the outboard or inboard side?

A. These are bolted to the outboard side of the screen, stand at right-angles to the screen.

176 Q. Those are the only measurements you know anything about in regard to the ship?

A. Those are the only measurements, there are too many of the others to remember.

177 Q. In this particular ship you don't know what the measurement was between the centre of the flames?

A. No, I never measured the lamp.

(Deposition concluded.)

JOHN CAMERON, having been duly sworn, was examined by Mr. Hayden and deposed and testified as follows:

178 Q. What is your full name? A. John Cameron.

179 Q. What is your age?

A. I think it is thirty-three, I am not sure.

180 Q. What is your business?

A. Ship's draughtsman.

- 181 Q. Where did you learn that business?
A. In the North of England.
- 182 Q. Under what circumstances, what schools or otherwise did you go to?
A. Graduate of Durham University, served my apprenticeship to R. W. Hawthorne Leslie, Ship-Builders and Engineers.
- 183 Q. How long were you with this firm of Shipbuilders and Engineers serving your apprenticeship?
A. Six and a half years.
- 184 Q. How big a firm are they?
A. One of the largest in the North of England, very prominent, Admiralty builders.
- 185 Q. What experience in that work have you had since you left England?
A. I put in about a year in New London, Connecticut, the Eastern Shipbuilding Company, on the building of the Minnesota and Dakota.
- 186 Q. You put in a year about in Connecticut, then where did you go?
A. About three and a half and four years with the Union Iron Works in San Francisco.
- 187 Q. Then where did you go after you left the Union Iron Works at San Francisco?
A. To the British Columbia Marine Railways in Esquimalt.
- 188 Q. In Victoria? A. Near Victoria.
- 189 Q. Close to Victoria? A. Yes.
- 190 Q. What has been the general nature of the work there you have been doing?
A. The making of necessary plans and estimates, ordering of material necessary in the construction of a ship.
- 191 Q. Do you remember the Steamship Strathalbyn in dock at Esquimalt? A. Yes.
- 192 Q. Do you remember about what time she was in dock in Esquimalt?
A. I can't just remember the date; about the beginning of the year 1912.
- 193 Q. Did you have anything to do of any kind with the measurements of the Steamship Strathalbyn when she was in dock at Esquimalt? A. Yes.

- 194 Q. Did you make a drawing and some blue-prints?
A. Yes.
- 195 Q. How many drawings and blue-prints did you make?
A. I made the original lay-out on drawing paper and a tracing of it on linen and made some blue-prints from the tracing.
- 196 Q. What blue-prints did you make?
A. Do you mean the number?
- 197 Q. No, of what? A. Of this tracing?
- 198 Q. What was the tracing of?
A. It was a deck-plan and part profile and cross-section.
- 199 Q. Did you make a tracing for the purpose of showing the necessary work for her repairs?
A. I made such a tracing later.
- 200 Q. Did you make a tracing at the request of Mr. Jack?
A. Of course I got my orders from the Superintendent of the works.
- 201 Q. Not from Mr. Jack?
A. Mr. Jack was round there, I am not quite sure, but I think in connection with some letter that had come to Mr. Jack, as to some measurements; there was a letter laid on my book just stating that certain measurements were wanted; I made a drawing.
- 202 Q. Do you know who that letter was from?
A. From Hayden & Huffner, Lawyers.
- 203 Q. From me? A. Yes.
- 204 Q. Did you make measurements of the Strathalbyn in connection with that letter? A. Yes.
- 205 Q. (Handing witness tracing) Did you make this tracing now handed to you?
A. Yes, I think that is mine.
- 206 Q. I am now referring to the tracing marked, "Libelants identification, 14, dated January 14th, 1913"?
A. Yes, I remember that is the same tracing.
- 207 Q. How many blue-prints did you make from that tracing? A. I cannot remember just exactly.
- 208 Q. Did you make more than one?
A. Yes, I think I made more than one, how many

more I can't say, I probably have it on record--I am not sure.

209 Q. Is this blue-print Libellants identification 5-5 taken from that tracing?

A. I would have to lay the tracing over it I suppose; (Witness compares the tracing and blue-print)—I should say it is.

210 Q. Did you put the letters and figures on the blue-print with the exception of this writing in the corner, "Checked by dimensions taken on vessel and found correct, Chas. P. N. Jack, Willm. H. Logan, Frank Walker"?

A. These pencil dimensions there are not in my figures.

211 Q. What pencil dimensions do you refer to?

A. Four feet, there.

212 Q. What part of the drawing?

A. This profile.

213 Q. Just above chart room deck on the profile?

A. Yes.

214 Q. The profile you refer to is the one showing the deck line? A. The elevation, yes.

215 Q. Where did you get the data that you put on that blue-print? A. Direct from the boat.

216 Q. All of it? A. Excepting one dimension.

217 Q. What dimension was that?

A. (Indicating) 46.10.

218 Q. Where did you get that from?

A. I got that from Mr. Jack.

219 Q. Do you remember anything that was said by Mr. Jack relative to that data 46.10?

MR. BOGLE: I object to anything that was said by Mr. Jack with reference to that data.

MR. HAYDEN: I think your objection is well taken, it is hearsay as far as you are concerned.

220 Q. You say that you made the original measurements of this boat, as I understand it, and that the measurements on here except the 46.10 are what you found?

A. No, I don't say that, I haven't checked them up.

221 Q. What did you do to get your data, how did you go about it?

- A. Well, I went over to the boat and took a rough note-book with me, as I generally do in measuring up a ship, and took my dimensions and made free-hand sketches and put my dimensions on the sketches and went back to the office and started to lay it down on a piece of drawing paper from those dimensions.
- 222 Q. Have you got your original notes that you made at the time you took these measurements on the steamer? A. Yes.
- 223 Q. Will you please produce them?
(The witness produces a rough note-book on which he indicates from time to time in his answers.)
A. There are other notes, this is a general, just a rough sketching pad that I keep, or did at that time; that is the beginning of that, some data relative to the size of the scantlings, the damaged parts, the angles, string-pieces and so forth, certain angles that were wanted there.
- 224 Q. I wish you would refer to the first page of that book that has anything to do with the Strathalbyn?
A. There is a little rough sketch I made of the forecastle deck.
- 225 Q. Will you please mark that page, C. V. 1, in a circle in pencil, put it in a circle so as to identify it, standing for Cameron, Victoria, 1—put it in a circle please? (Witness complies.)
A. That is a very very rough one, I only roughly made a sketch of the windlass there before they removed it, that is so as to get the exact place.
- 226 Q. Have any of the sketches that you now have referred to or any of the words or letters been changed or obliterated since the time you put them down? A. No, not a figure.
- 227 Q. That book has been in whose possession?
A. In my own.
- 228 Q. Now referring to the page marked C. V. 1—
A. (Indicating) This is a little rough sketch of the bed-plate of the windlass, this is merely to do with the damage.
- 229 Q. Please explain briefly what that is, C. V. 1?
A. In stripping the forecastle deck we wanted to

be able to put the windlass back as nearly as possible in the original position; that was to give me the position of the windlass on the forecastle deck.

230 Q. That was the windlass on the forecastle deck?

A. Roughly.

231 Q. Has this page (indicating) anything to do with the Strathalbyn? A. Yes, that is Strathalbyn, yes.

232 Q. Mark that, then, C. V. 2, in a circle? (Witness complies.) What does that page—what are the notations on that referring to?

A. Just some notes I made previous to going down to the boat one day, some sizes of plates, shell-plates; on the top here I have "Stem bar, frames, reverse-frames, reverse-frames, port-frames and starboard-frames—some particulars I wanted to keep in mind when I went down to get sizes, these are sizes of plates, roughly.

233 Q. Has this page (indicating) anything to do with the Strathalbyn?

234 Q. Please mark that C. V. 3, in a circle. (Witness complies.) Now what is that?

A. That is giving sizes of stringer plates and reverse-frames in the peak, bulk-head angle frames off the bulk-head.

235 Q. This only refers to frames?

A. And beams.

236 Q. Has this page anything to do with the Strathalbyn (indicating)?

A. Yes, that is Starthalbyn.

237 Q. Mark that C. V. 4, in a circle. (Witness complies.) What does that refer to?

A. That was just a very rough diagram I made to get the length of the longest frame in the forepeak.

238 Q. Has this next page anything to do with the Strathalbyn? A. Yes.

239 Q. Mark that C. V. 5, in a circle. (Witness complies.) What does that data on that page refer to?

A. Gives the size of a beam in the forepeak, upper-deck beams stem bar and frames.

240 Q. All beams? A. All beams.

241 Q. Does this page have anything to do with the Strathalbyn (indicating)? A. Yes.

- 242 Q. Mark that C. V. 6. (Witness complies.) What does the data on that purport to be?
A. Rough summary of some of the work necessary to do there for the renewal forward and that is a part of it.
- 243 Q. Put C. V. 7, in a circle. (Witness complies.) That C. V. 7, is a summary of the work? A. Yes.
- 244 Q. And the next page is a continuation of the same thing? A. Yes.
- 245 Q. Make that C. V. 8, in a circle. (Witness complies)? A. (No answer.)
- 246 Q. And the next page is what?
A. This, as far as I remember—
- 247 Q. Refer to the page as C. V. 9?
A. It is Strathalbyn, yes.
- 248 Q. Now referring to C. V. 9, what is the data on that page?
A. It is a list I wanted to get from the boat preparatory to making that sketch there.
- 249 Q. When you say that sketch you refer to the sketch you have already referred to in your testimony?
A. Yes.
- 250 Q. Marked for identification Ex. 14, that is the sketch? A. Yes.
- 251 Q. Mark this page C. V. 10, in a circle. (Witness complies.) Does that refer to any part of the Strathalbyn?
A. Yes, sketch of the bulb-angle, bulwark rail.
- 252 Q. What bulwark rail?
A. I think what I have referred to as the upper deck bulwark rail.
- 253 Q. When you say upper-deck, what deck do you mean? A. The first deck.
- 254 Q. Sometimes called—
A. May be called the upper- or main deck; I am not quite sure which was the main-deck—the deck on which the cargo was stored, I call it upper-deck.
- 255 Q. Here is a dimension figures 4.6? A. Yes.
- 256 Q. On the page C. V. 10, we are referring to now?
A. Yes.
- 257 Q. What is that a measurement of?
A. Height from the deck beams, height from the

deck to the top of the bulb-angle at the top of the rail.

258 Q. I see the figure, "3", that is a sign for inches and the word "dia."? A. Yes.

259 Q. What does that mean?

A. Diameter of moulding, half-round moulding, forming finish on the straight.

260 Q. I see "9x3" inches, bulb-angle with an arrow leading to it, explain that please?

A. That is the size of the bulb-angle at the top of the rail.

261 Q. What does the "9" refer to?

A. The long leg of the angle.

262 Q. And the "3" refers to what?

A. The flange riveted to that rail.

263 Q. That bulb-angle forms the top of the rail?

A. Yes.

264 Q. I see on the lefthand side of the lower end of the drawing "10 inches" between two parts of the arrow, what does that refer to?

A. The height of the sheer-strake of the deck, the gunwale angle.

MR. HAYDEN: I think we could avoid a great deal on the record if we would agree on the material on these pages as we go along.

MR. BOGLE: I want to avoid all the record I can.

265 Q. Referring to this figure "18" on C. V. 10, what is that?

A. That is the distance from the heel of the gunwale bar to the inboard side of the bulwark brace or support.

266 Q. That bulwark support is what?

A. Made of a bulb-plate, it supports the bulwark.

267 Q. This "8 inches" refers to what?

A. That is the width of the bulwark brace or bulwark support.

268 Q. Does this page refer to the Strathalbyn?

A. Yes, that is Strathalbyn.

269 Q. Just mark that C. V. 11, in a circle. (Witness complies.) And what is what?

A. That is a little plan, view of the chart room deck, rough plan.

- 270 Q. That is just the outline?
A. That is all, no dimensions.
- 271 Q. Is this page a part of the measurements?
A. Yes.
- 272 Q. Mark that C. V. 12, in a circle. (Witness complies.) Referring to the figure at the top of the page will you please explain all of the markings upon it stating what it is and in your answer call the figures along with your explanation of them so that the record will show what you are referring to?
A. It is a section through—it is a section through, you call this the flying bridge rail.
- 273 Q. Please call the figures and tell what they refer to commencing at the top?
A. The top is $6\frac{1}{4} \times 2\frac{1}{2}$ inch wood rail and there is a $4 \times \frac{7}{8}$ wood block, piece of timber, and there is the sides $\frac{7}{8}$ T. and G., that is the thickness. Then there is the combing at the bottom about $3\frac{1}{2}$ inches deep by $2\frac{1}{2}$ wide; this dimension shows the height of the rail, $3.2\frac{1}{2}$ inches the height from the deck, 8 inches gives the distance to the covering board.
- 274 Q. That figure is what?
A. I gave you that, $3\frac{1}{2} \times 2\frac{1}{2}$ combing.
- 275 Q. Now referring to the figure about the middle of the page on the lefthand side of it?
A. It is a little view of the end of the light screen in relation to the nosing at the forward end of the bridge. This is a note in conjunction with this.
- 276 Q. The one you are referring to is the little left hand one, little drawing on the left of the page about the centre of it? A. Yes.
- 277 Q. That shows what?
A. It is the height of the light screen from the deck.
- 278 Q. Now give us the figures?
A. Nine and a half inches shows the thickness of the light screen; one and a quarter in this note here is the end of the screen to the nosing at the forward end of bridge twelve inches.
- 279 Q. What light screen is that you are referring to?
A. This one here (indicating on plan).
- 280 Q. On what deck is that?
A. I will just look at this other plan.

281 Q. Now referring to blue-print, identification 5-5?
A. Called the chart-room deck.

282 Q. What is the height of the light screen above the chart-room deck?

A. I have got the dimension, nine and a half, that is the top of the screen, the top of the base board to the top of the deck and the baseboard is one and a quarter inches thick.

283 Q. This writing on the right-hand side right under the figure you have just been referring to is what?
A. That is a little note giving the relation of the end of the screen to the nosing at the end of the chart-room deck.

284 Q. What was the distance to the nosing at the end of the chart-room deck? A. Twelve inches.

285 Q. You might go back to the first drawing, the upper part of C. V. 12, and mark that 12.1 in a circle, at the side of it, 12 with a small 1 in a circle, at the side of it. (Witness complies.) Now, referring to the figure 12.1, indicate on the blue-print where 12.1 would appear on the blue-print?

A. Either port or starboard side.

286 Q. Will you mark 12.1 to correspond with that 12.1, so that this bluee-print will show where the figures are you have been explaining?

A. It would be anywhere on this bridge, I cannot tell where I took it, I cannot indicate its position, it is a section through that bridge, this runs all the way round, this is just a cut through it.

MR. BOGLE: This portion off to the left would be—

THE WITNESS: It is practically the same construction.

287 Q. Then put 12.1, right along in there. (Witness complies.)

MR. BOGLE: Better draw a line through it.

Q. (Contd.) At this little figure at the left hand part of the page, about the middle of it, mark that 12.2 in a circle. (Witness complies.) Now, indicate on the blue-print where 12.2, will be?

A. It would be either here or here (indicating on blue-print 5-5).

289 Q. Just mark 12.2, to show. (Witness complies.) Now mark the writing here "End of screen to nosing," and so forth, 12.3,? (Witness complies.) Now make a corresponding number on the blueprint for the corresponding position on that—that writing?

A. I will put it under here, that is where it is, I cannot get that in small enough.

290 Q. Make an arrow and draw it off. (Witness complies.) Now referring to the drawing on the right-hand side of the page C. V. 12, about the middle of the page, state what that is?

A. That is a sketch of a light screen giving the dimensions.

291 Q. Commence with the figures at the top, calling the figures and explaining each one?

A. 15 3-16ths is the width of the after end of the light screen.

292 Q. On what deck?

A. On the chart-room deck, both screens are the same.

293 Q. Go right ahead and explain all the figures you have got in connection with it?

A. I will give you the widths first; fourteen inches is the width inside the light screen, $5\frac{1}{2}$ is the width at the forward end, the inside width I should say, the forward end of the base board of the light screen $4\frac{1}{2}$ inches.

MR. BOGLE: Which light screen?

A. Any light screen, they are all similar.

MR. BOGLE: The $5\frac{1}{2}$ inches is the width of the shape of that screen as it sits upon the deck?

A. It is the width inside; $4\frac{1}{2}$ inches is the width of the block at the forward end of the light screen, and it is $2\frac{1}{2}$ inches thick, the total length of the light screen is $3.9\frac{1}{4}$ inches outside, the vertical board is 1 inch thick; 9 inches is the length from the after end of the screen to the straight part of the base board and 18 inches is the length of the straight part of the base board from the forward end. The length inside the screen is $3.5\frac{3}{4}$ inches.

294 Q. That means the length between the inside of the backboard to the inside of the block?

A. To the inside of the block, you are right.

295 Q. Please mark that 12.4, in a circle. (Witness complies.) Mark the figure 12.4, as you have just described from your book on the blue-print, (5-5). (Witness complies.) Now, the figure on bottom of page C. V. 12, on the right-hand side, that you may mark now C. V. 12.5. That represents what?

A. It is an elevation of the forward end of the screen.

294 A. Explain the figures that are upon it?

A. The base board of the screen $1\frac{1}{4}$ and 15 inches is the dimension from the top of the base board to the top of the screen.

297 Q. Let us make this next page C. V. 13, in a circle, if that has anything to do with the Strathalbyn? (Witness complies.) Generally, what does that represent?

A. That is a cross-section of the ship anywhere, and the bridges, cross-section to show the different decks.

298 Q. Commence at the top and state what the figures are, what they stand for and with reference to the particular deck or bridge as you go down?

A. This here is the flying bridge deck here, that is the top.

299 Q. Mark the flying bridge deck 13.1, in a circle. (Witness complies.) Now, give us a description?

A. This dimension, 46 feet, is from the inside to the inside of the wood rail, like a wood curtain all the way round the bridge deck; $3.2\frac{1}{2}$ is the height of the wood rail, and on the top of that is the wood rail $6.2\frac{1}{2}$ inches.

MR. BOGLE: Is it necessary to get all this?

300 Q. Drop down to the next deck below this, that is what deck? A. The chart-room deck.

301 Q. Now mark the chart-room deck 13.3, in a circle. (Witness complies.)

A. I will put it in a line here.

302 Q. And that corresponds with this blue-print. There is some writing there has been referred to?

A. 13.2, would be—(Witness marks blue-print). (The witness marked 13.1, opposite the flying bridge, and 13.2, opposite the chart-room.)

303 Q. Please give us the meaning of the figures you have on the chart-room bridge deck?

A. There is the detail of the construction, is similar to that 12.1, port and starboard is, light screen out board of that and this shows the construction of the light screen; this is the wood work all round the deck supporting this.

304 Q. You say this is the wood work, what do you refer to when you say this is the wood work, the perpendicular part?

A. Yes, supporting the rail.

305 Q. The part between the two long lines perpendicular? A. Yes.

306 Q. When you referred to the outboard edge of the screen you said—What is this writing here?

A. To the inside of this wood work here is $46.2\frac{5}{8}$ inches across the ship, and the inside to the inside of the light screen is $46.6\frac{3}{4}$ inches.

307 Q. Now, the distance $46.6\frac{3}{4}$ is from the inside—is from the outside rather—side of the light screen board that is against this railing across the ship to the outside of the screen board that is up against the railing? A. Yes.

308 Q. That distance is $46.6\frac{3}{4}$ inches? A. Yes.

309 Q. Explain how you got that measurement, what you did?

A. Well, there was a door made in this place here (indicating).

310. Q. Call it by the name?

A. The bridge side was hinged and the light screen was fastened to that.

311 Q. Fastened to the door?

A. Yes. And I opened both those doors, both port and starboard and stretched my tape line right across, took that dimension very carefully; this whole thing swung you see, and I opened that and could get the exact cut of the wood you see, and measure the thickness of the wood also.

313 Q. Here is a dimension 5×3 ?

- A. That is the size of the decking, size of the planks, 5 wide, 3 thick.
- 314 Q. What is this number?
A. That is the depth of this covering board.
- 315 Q. What is the depth of it? A. One inch.
- 316 Q. Here is the figure 8, what is that?
A. That is the width of the covering board.
- 317 Q. Here is "1½," that refers to inches? A. Yes.
- 318 Q. Figure "8" is inches, and "1½" is inches?
A. Yes.
- 319 Q. What is that (indicating)?
A. The distance from the outside of the deck plank-ing to the edge of the covering board; that covering board is 1 inch thick and 8 wide.
- 320 Q. The light screen is how many inches above the covering board?
A. I have got it 9½ inches above the deck, the covering board is 1 inch thick, that would make it 9½ inches, that is on this sketch here.
- 321 Q. When you refer to "This sketch here" you refer to 12.2? A. Yes.
- 322 Q. On the sketch 13.2, the shape of the light screen is not depicted?
A. No, it would have conflicted too much and I made a separate little detail.
- 323 Q. That separate little detail is 12.4 and 12.5?
A. Yes.
- 324 Q. Did you notice any iron bracket in the light screen? A. Yes.
- 325 Q. Did you notice where that iron bracket came in the light screen with reference to another feature of the light screen?
A. It was in this portion here where the lamp would naturally rest.
- 326 Q. State whether or not there was any opening in the vicinity of the iron bracket in the light screen?
A. As far as I can remember there was a small hole probably about 4 inches diameter.
- 327 Q. And that small hand hole was positioned how with reference to the iron bracket?
A. I just cannot recollect exactly—close to it.
- 328 Q. Do you know the purpose of that small hole?

A. It was to allow you to get at some portion of the lamp, that was the idea; I could not see the lamp, the lamp I was told was in Tacoma.

329 Q. What is your recollection as to the position of that exactly with respect to the iron bracket?

A. It was close to it, but I am not quite certain as to just the exact relation to the bracket.

330 Q. You did not make any sketch of the bracket, did you, on that drawing 12.3?

A. No, because I was more particular in getting this block of the screen; I got the exact location of the screen and made this detail of the block and this was principally the dimension I was after, from this block here to the block on the other side.

MR. BOGLE: Which block do you mean?

A. (Contind.) This block at the forward end of the screen.

331 Q. Referring to drawing 12? A. Yes.

332 Q. What distance do you say you were particular to get?

A. The distance from this side of the screen to the opposite side of the ship, and a sketch of the bracket giving the other dimensions.

333 Q. In fact you were particular about all your dimensions, were not you? A. Yes.

334 Q. Now the rail shown in figure 13.2, corresponds with in detail, what figure?

A. 12.1, there is the rail, there is the block supporting it, there is the $\frac{7}{8}$ ths tongue and groove, here is the covering board, I haven't shown on this, 13.2, the detail of this combing which is shown on 12.1.

MR. HAYDEN: Do you see any other figures you want questions about as far as this 13.2; I think it would be better to question about these as we go along, it would be so much easier to follow the testimony.

MR. BOGLE: How many more are there?

THE WITNESS: This is a few of the book, this is only a very rough sketch, I don't as a rule keep them when once embodied in a drawing, when you put them in a book with other data——

335 Q. Here is a figure 7.5, between 13.1, and 13.2, running perpendicular?

A. That is the height from the wood deck, it is the height from the top of the wood deck on the chartroom deck to the heel of the beam on the flying-bridge deck.

336 Q. What is this where I am drawing my hand through, this section?

A. This shows the deck below.

337 Q. The deck below the chart-room deck?

A. We call that the cabin deck.

338 Q. Will you mark the cabin deck 13.3, in a circle, and put the corresponding mark on this blue-print. (Witness complies.) Now, please explain your figures starting from the bottom with 13.2 down to 13.3?

A. This gives the size of the angle-iron supporting this deck, 3x3, and the frame at the side is 3x3 angle connected to the beam above by an 18 inch bracket, on the out board there is a covering angle 4x4, structural details; this is the steel bulwark on this deck.

339 Q. When you refer to this, mark the object you refer to as the top of the bulwark rail, write, "Top of bulwark rail," and connect it with an arrow. (Witness complies.) What is the distance between the beams?

A. Will you excuse me a moment. This is the deck gunwale bar.

340 Q. Have you got the height between 13.3, and 13.2?

A. Yes, it is 7' 10", I have got 7.10 from the heel of the gunwale bar to the angle of the beam and a quarter inch would be the thickness of the plate. This thickness would be from beam to beam, from the heel of that beam to the heel of that beam; this is from the heel of the bar which is on the top of the plate, and the other from the heel of the beam which is on the bottom of the plate, so these two dimensions tally.

341 Q. What is this 36.2?

A. The height of the bulwark rail above the deck, 36½.

342 Q. That is above the cabin deck?

A. Above the cabin deck, this shows the thickness of the centre 5-16ths.

343 Q. I see here—what are these figures?

A. 48.10¾, from the heel of the bulwark angle on the port side to the heel of the bulwark angle on the starboard side.

34 Q. And the heel of the bulwark angle is the top of the bulwark rail that is round the cabin deck?

A. That is right.

345 Q. That is from the outside? A. Yes.

346 Q. Now what is this line I have across here taken where I draw my finger?

A. The upper deck, or as I think as you have designated it "the cargo" deck.

347 Q. Mark that 13.4, in a circle. (Witness complies.) And indicate on the blue-print the deck that 13.4, refers to. (Witness complies.) Now, commencing with the cabin deck 13.3, give us the measurement figures that show the measurements between 13.4, and 13.3?

A. It is formed up, vertically 7.6, I also took it there 7.6½; this cabin deck is narrower than the cargo deck, this is on a rake.

348 Q. 7.6 is between what points?

A. Between the heel of the beams in each case.

349 Q. I see the figures just under 13.3, 49½, is that it?

A. Yes, that is heel to heel, or bulkhead bounding bars, that is all bulkhead, all bulkhead all the way round from the heel on the port to the heel on the starboard side taken at the cabin deck is 49.1½ inches.

360 Q. Now, I see under 13.4, 51.1¼ inches, what is that measurement?

A. That is from the heel of the deck bar on the port side to the heel of the deck gunwale bar on the starboard side taken at the bridge front.

351 Q. I see 48.67⅞ths and right under it 46.6¾, and under is 2-0⅛, what are those figures?

- A. It has nothing to do with the sketch, just some little side calculation, it is not a dimension of any part of the sketch, some little calculation.
- 352 Q. I see up here just under 13.1, the figures 46.6 $\frac{3}{4}$ under the 6 there is a 9, and under the 9 a line is drawn and then there is 47.3 $\frac{3}{4}$, then a bracket apparently and opposite that 46.10?
- A. This is a little calculation I made, 46.6 $\frac{3}{4}$ is this dimension from the inside of the screen to the inside of the screen different sides of the ship.
- 353 Q. On what bridge?
- A. On the chart-room deck; what I have been trying to get at there was the exact dimension from the outboard side of the block to the outboard side of the block in front of the screen on the different sides of the boat, 4 $\frac{1}{2}$ inches each side give me that distance—across the ship, I make that 47 $\frac{1}{4}$ inches.
- 35 Q. What is the 46.10 up there?
- A. After I put that dimension on the blue-print I put that there evidently for comparison with what I made up here.
- 355 Q. To compare with the 47.3 $\frac{3}{4}$?
- A. Yes. This 46.10 is not my dimension at all.
- 356 Q. That 46.10 then was, there is the same 46.10?
- A. I did not put this here while I was making the sketch, this is some days afterwards, after I had put it on the print.
- 357 Q. After you had put it on the print between the blocks on forward end of the screens?
- A. Yes, that is not my figure please understand.
- 358 Q. Now then referring now to the blue-print and the line dropped down to the light screen to the line written on the arrow, between these lines dropped down from the light screen to the line on which is written "46.10, between blocks on forward end of screens," is that, or is not that correct according to your figures?
- A. No, it is not; I put this thing on here but there was no dimension; I was told to leave that dimension off, that dimension would be given to me afterwards, therefore this is put in the blue-print with ink after that was made; you can see that (indicat-

ing the words) is all in white, and this (indicating figures) is all in black.

359 Q. What did you mean to indicate when you dropped the line down from this light screen?

A. I meant to give the distance from the outboard side of the block, the forward end of the screens on both sides of the ship, get that distance right across the boat, although in my wording there I should have said between the outboard end of block, to my mind I thought that plain enough "between blocks." This block is really part of the light screens between the outside edges.

360 Q. Then according to your measurements this 46.10 should be 47.3¾?

A. Yes. That is from between the blocks, that 47. I take it would correspond with the flame of the lamp, that idea of the block is to prevent the flame it is the limit of the flame, the flame cannot show inside of that, the flame could be further out but you could not see the flame if it was any further in.

361 Q. Here is something up here (indicating on sketch)?

A. That is the electric lamp on the flying bridge; just made a little sketch and took the dimension of the inside of the screen, 3 of metal and 8 inches of glass, that is this on the top that was there.

362 Q. Mark that lamp 13-5, in a circle. (Witness complies.) Three inches is the metal base of the lamp, and 8 inches the height of the glass?

A. Yes, clear glass, it was not really necessary that was not the light in question, this is the top lamp of all.

363 Q. Mark this page please C. V. 14, in a circle. (Witness complies.)

Q. (Continued.) State what that is?

A. It is just a very rough view of the front of the bridge.

364 Q. Now mark this page C. V. 15, in a circle. (Witness complies.)

Q. (Continued) What does that represent generally?

A. That is a plan-view from the bridge front to the

forecastle front giving the widths inside the bulwark rail, and also the widths for the deck.

365 Q. And that is the cargo deck that you are referring to now? A. Yes.

366 Q. The upper part of the picture, what is that line across the upper part of the picture?

A. That is the forecastle front, bulkhead.

367 Q. You might just write, "Forecastle front" on it, right on that line I think. (Witness complies.)

Q. (Continued) What is this line across the bottom of the page?

A. That is the bridge front.

368 Q. You have got "Bridge front," written on that, haven't you? A. Yes.

369 Q. Now commencing with the figures on the left-hand side, commencing with 5' 9", and tell what they are as you go along?

A. 5' 9" gives the distance from the bridge front to the first bulwark support; 12 feet is the next bulwark support; 12 to the next one; and 12. I had considerable difficulty in getting these; all this deck if you remember was piled up with miscellaneous lumber and I had to get it cleared away to get down here. I took these widths from the inside to the inside; the lengths between——

370 Q. Give me the lengths between 4 and 5?

A. 21.4½ inches, all practically 12 feet apart.

371 Q. The other distances between, the figures from 5 up to 8 are the distances between the bulwark supports as shown on the tracing?

A. Yes.

372 Q. Your figures 101.9½, what does that mean?

A. The distance from the bridge front bulwark to the forecastle bulkhead.

373 Q. I see here above the bridge front, 48.7 inches?

A. Inside bulbs.

374 Q. Now explain that please?

A. You understand the construction of these bulwarks?

375 Q. You have referred to that in connection with C. V. 10?

A. Yes. Owing to the deck being covered with

lumber here, I got the width you see, this was quite a distance off, I got the width in each case from the inside of the bulb-angle at the top of the bulwark one side to a corresponding point of the other.

376 Q. Then 48 ft. 7 ins. represents the distance across the ship from the inside of the bulb-angle of the rail on the cargo deck?

A. That is right.

377 Q. That is the rail on the port side and the rail on the starboard side? A. That is right.

378 Q. Five feet nine and a half inches forward of the bridge front? A. Yes.

379 Q. Let me put a general question: at figures 2, 3, 4, 5, 6, 7, and 8, the figures, the measurements, were taken across the deck in a similar manner to this at figure "1" where you got 48.7, and those measurements are represented all of them in this commencing with figure 2 in the figures as follows: 48' 5½"; 48' 2"; 47' 9¾"; 47' 4"; 46' 8"; 45' 8¾"; 43' 11"?

A. Yes, those are all there.

380 Q. Have you got the distance across the forecastle front?

A. Yes, here it is, 40 ft. 5¼ ins. but not at the rail, that is down on the deck, I could get at it there, the deck was clear, the men had to get into their living quarters; I could stretch my tape-line to here (indicating); the deck being lumbered up with miscellaneous stuff, to get the correct shape of the deck I had to take the distance between these bulbs and add the other dimensions; but at the forecastle deck I could get the exact width.

381 Q. Here is 40.5¼?

A. That is on the forecastle deck, above that again; if you will refer to that previously (indicating on blue-print) 40.5¼ wide across this point (indicating on blue-print).

382 Q. Mark 40.5¼ on the blue-print in pencil to indicate the point you refer to? (Witness complies.)

A. This dimension was taken up at this forecastle head.

383 Q. Mark that dimension there then across. (Witness complies.)

Q. (Continued) You were going to explain these small figures in here just below 48.7, on C. V. 15?

A. You see the construction here (indicating).

384 Q. You are referring to C. V. 10?

A. Yes, the whole of this cargo deck had lumber and stuff here and it was impossible to stretch the tape-line and get the width on the deck; this dimension you have already had explained to you gives the distance from this bulb here to this bulb there; to get the width of the deck I dropped a plumb-line down from the inside of this bulb and measured it to the heel of this deck angle.

385 Q. Saw that your plumb would go on to the deck below and measured from that point outward?

A. Yes; I went across to the port side and did the same as on the starboard side to get the width of the deck below, I could not stretch a tape-line here owing to the whole deck being covered up; on the starboard side $15\frac{5}{8}$ ths, and on the port $15\frac{3}{8}$ ths, starboard and port added in each case.

386 Q. To get the width of the deck you would take the sum of $15\frac{5}{8}$ ths and $15\frac{3}{8}$ ths and add to the 48.7, to get the width of the deck itself?

A. Yes, I had to get the deck outline. This is a sketch of a bollard, timber-head, I think you people call it, the bitts; this is the bitt located just forward of the bridge front

387 Q. Please mark that C. V. 16, in a circle. (Witness complies.)

389 Q. The figure 8' 2", represents what?

A. The distance of the bollard forward of the bridge front.

390 Q. That is the equivalent to what we call "bitts"?

A. Yes, some people call them timber-heads. there are various names for them.

391 Q. What does the figure $21\frac{1}{2}$ " represent?

A. Twenty-one and a half inches the distance the bollard is set inboard from the side of the ship on the deck.

BY MR. BOGLE: Not the inside of the bulwark?

A. No, couple of feet from the ship's side, the lumber was not interfering very much, you could get down between the bulb-angles.

BY MR. HAYDEN:

392 Q. And the length of the bollard is how much?

A. Five feet five inches.

393 Q. Eighteen inches wide?

A. Yes, and two feet above the deck.

394 Q. The two feet above the deck is the height of the standards? A. Yes.

395 Q. These two round things represent what?

A. They are the part of the bollards you make your lines fast to; there is a hole there for the men to put a rope through and the rope comes through there; I don't know it had any great bearing on it.

396 Q. Where was that hole?

A. In the bulwark plate, it was 12 inches long and 9 inches deep.

397 Q. How far from the bridge front ?

A. Two feet three.

398 Q. And the line comes through there to make fast to the bollard? A. Yes.

(It is agreed between Counsel that the pages referred to by the witness, Cameron, in his depositions, and numbered C. V. 1 to C. V. 16 inclusive, shall be cut out of his note-book to be placed in Court, but subject to the objection of Mr. Bogle as to their introduction as exhibits. Pages referred to, cut from note-book and marked, "Ex. C. V. 1 to 16, 30 Sept. '13 L. J. S.", respectively.)

Mr. Hayden: What I want to do now is to introduce the blue-print. Introduced by agreement of the parties, blue-print entitled "Claimants identification, 5-5."

399 Q. Now referring to this blue-print, "Claimants exhibit 5-5," have you compared the figures on that with your notes?

A. All except that 46'-10".

MR. HAYDEN: In introducing that in evidence I do so subject to the explanation of the witness as to the measurement 46'-10". You have called for

the original tracing; we produce the original tracing as well as the original blue-print.

MR. BOGLE: Yes.

MR. HAYDEN: In response to that demand I produce the original tracing marked, "Libellants identification ex. 14, January 14, 1913, G. H. C., N. P."; and offer that in evidence, asking Mr. Cameron if that is the tracing this blue-print is made from?

THE WITNESS: Yes, that is the tracing.

400 Q. Do you think of anything else in connection with the tracing, the blue-print, or figures, these various exhibits that have been introduced and verified by you,—and your measurements of the ship,—that has a bearing on this matter, as to the measurements of that ship; which you have not yet testified to?

A. I don't understand the question.

401 Q. Have you got any further explanation to make, anything else you want to say in connection with these measurements? A. No.

402 Q. What I want to do is to get all the information there is about it? A. Yes.

CROSS-EXAMINED BY MR. BOGLE.

403 Q. When did you make these various measurements shown on Libellants exhibits C. V. 1 down to 16?

A. I cannot remember the date, just after the Strathalbyn went into dry-dock.

404 Q. Were those measurements made prior to the date on which Mr. Walker, Mr. Jack, and Captain Logan made their measurements?

A. Yes, as far as I remember.

405 Q. They were made at the request of Messrs. Huffer & Hayden?

A. As far as I remember we had a letter from Mr. Hayden, I remember his name.

406 Q. Mr Hayden represents the Strathalbyn in this proceeding?

A. I think there were two or three names.

MR. HAYDEN: Do you remember who the letter was to?

A. I cannot remember who it was addressed to.

407 Q. Not addressed to you?

A. Oh, no, passed up to me.

BY MR. BOGLE:

408 Q. Do you remember what measurements Mr. Hayden's firm requested to have made?

MR. HAYDEN: I will let you see a copy of the letter if you want to.

MR. BOGLE: It might save my asking him a lot of questions to find out why they were made and at whose request.

MR. HAYDEN: I admit on the record I wrote to Mr. Jack to have the measurements of the ship made.

MR. BOGLE: I would rather get this from the witness.

MR. HAYDEN: I have not any objection to your doing it.

(The witness did not answer the last question.)

409 Q. Were all of these measurements made in accordance with these instructions?

A. No, most of these dimensions were constructional, I had to make them to get the outlines; certain measurements specified in connection with the light screen, I cannot remember the wording of the letter.

410 Q. Were the dimensions which were to be made specified, or did the letter state the purpose of having the measurements made?

A. No, that is as far as I can remember, as far as I remember, it was certain dimensions.

MR. HAYDEN: I want to ask the privilege of introducing in evidence the letter which I wrote in connection with these measurements, or, in case the examination is to proceed about that letter; on that understanding I won't object to the question as being immaterial, otherwise I wish to object to it as immaterial.

411 Q. Have you the letter with you, Mr. Cameron?

A. No, the letter was not addressed to me, the letter was not addressed to me, when the job was fin-

ished I sent it back; I got my orders through my superior.

412 Q. Do you remember the date of this letter approximately? A. No, I don't.

413 Q. Do you remember how long before these measurements were taken by Mr. Jack and Mr. Walker? A. No, I don't.

414 Q. Do you remember whether it was a matter of two weeks or more?

A. I don't think it was as long as that, as far as I remember just a short while, I cannot remember, it was before the time you speak of.

415 Q. Did you ever make a copy of these notes and furnish them to your superior, or to Mr. Hayden's firm?

A. No, sir, except you call this a copy, the notes are embodied in this plan.

416 Q. Is this tracing marked "Libellants identification ex. 14, January 14, 1913," made by you in accordance with that request? A. Yes.

417 Q. From your figures? A. Yes.

418 Q. Any of the figures on that tracing furnished to you by Mr. Jack? A. Not on the tracing.

MR. BOGLE: I shall object to the introduction of those notes on the ground they were made at the request of the libellant without any notice to us, or without any opportunity of appearing and verifying the notes, and on the ground that the Proctors in this case agreed that the measurements of the Strathalbyn should be taken by two Surveyors, one to be appointed by each Proctor, and that a survey was made and measurements were taken in accordance with the stipulation, at which both sides were represented.

MR. HAYDEN: I want to say right there that these measurements are introduced in evidence in accordance with a demand made by the firm of Bogle & Bogle, are all the original measurements of this ship, or in the possession of anybody we might be able to get at.

MR. BOGLE: I think the only demand ever made was the production of the original notes, in accord-

ance with the survey, and the measurements made in accordance with our agreement by Jack & Walker, or the notes made by the draughtsman in connection with that agreement and survey.

419 Q. Who was with you assisting you in making these measurements? A. Mr. Green.

420 Q. He is in the employ of the B. C. Marine Railway? A. Yes.

421 Q. You are in the employ of the B. C. Marine Railway? A. Yes.

422 Q. And the British Columbia Marine Railway had the job of repairing the Steamship Strathalbyn? A. Yes, we got the job.

423 Q. Now Mr. Cameron, referring to this tracing, "Libellants identification, ex. 14," were the measurements you made, in this tracing, and placed upon this tracing, and this tracing, made prior to the date the survey was made by Jack and Walker, February 19?

A. I cannot just remember the date I am sure.

424 Q. You don't remember whether——

A. I don't remember the date; that was of course after I made my sketches, took me some little time to lay it out and make the prints.

425 Q. This tracing was made entirely from your notes? A. I made the tracing from my notes.

426 Q. Were all of these notations and figures that are on here at the present time made by you prior to the time Mr. Jack furnished you with a copy of his notes, I mean irrespective of his notes?

A. Yes; as I told you I cannot just remember the dates; I first made the original drawing and then traced and then printed it—several days work.

427 Q. What I am getting at, this was made by you without reference to Mr. Jack's notes?

A. No, Mr. Jack was round there all the time I was making it, in and out of the office.

428 Q. At the time you made this tracing?

A. Yes, I was several days.

49 Q. Did he tell you what figures to put on here, did he tell you to put in this figure between blocks, I mean the wording? A. No, he did not.

420 Q. In this your own figure "48'-67/8'"? A. Yes.

431 Q. What caused you to take this cross-section eight feet forward of the bridge front?

A. Because you could not take it at the bridge front; I wanted to show the bridge front, so I took it at eight feet from the bridge front.

432 Q. Just an arbitrary figure?

A. Just an arbitrary figure, as the most convenient place.

433 Q. I want you to explain why you have not put in the place for this measurement between blocks and the forward end of screens?

A. Because I understood that was the measurement particularly wanted.

434 Q. Who did you understand that from?

A. From the letter.

435 Q. That letter mentioned that was what they particularly wanted to get?

MR. HAYDEN: That is objected to as not being the best evidence; you can demand the production of the letter and I will produce it.

MR. BOGLE: I will demand the production of the letter, produce it now.

MR. HAYDEN: I haven't it here with me.

436 Q. In the absence of the letter, I won't have the opportunity of examining this witness when I have got the letter, I merely want to find out where he got his information from in the making of this tracing. That is the reason you left the space for that measurement, that was one of the measurements was particularly desired?

A. Mr. Jack gave me to understand that dimension would be agreed upon between the Surveyors themselves.

437 Q. What Surveyors?

A. The various surveyors who measured it; Mr. Jack, Mr. Walker, and several others.

438 Q. The measurement between the blocks and the forward end of the screens?

A. Same dimension, I call it this dimension here, between blocks, from the outside of this block to the outside of that block (indicating).

439 Q. Did you understand from Mr. Jack that was the dimension to be agreed upon by the surveyors?

A. He was to give me some dimension which was to be agreed upon to check it up.

440 Q. Did you understand that was to be the distance between the blocks and the forward end of the screens?

A. As far as I remember there was no mention made of blocks or any particular part of the screen, Mr. Jack did not particularize what part of the screen was to be taken.

441 Q. You must have got that information some place? A. That is my own information.

442 Q. You blocked that without any request from anybody?

A. I did not take any dictation from anybody, that is my own, I put that there voluntarily.

443 Q. What did you mean when you stated Mr. Jack requested you to—either Mr. Jack, or the request in this letter was you should leave a space for that measurement?

A. A measurement in connection with the screen, there is no mention in that letter; I cannot remember without seeing the letter, does not mention any particular part of the screen, but in sizing up that as a man round a ship would do, I would know it was a dimension that would be wanted, that was the dimension inboard of which the light would not show, the extreme inboard limit of the light.

444 Q. That was the only dimension in connection with the light screen, between the lights or the visibility of the lights?

A. Out board of that, couldn't go inboard; I put that on on my own initiative, this notation between blocks and the forward end of screens.

445 Q. When you stated that information was particularly desired in the letter you were mistaken about that?

A. Without seeing the letter I cannot remember just the wording of it, there was certain information required, distances and heights in connection with the light screen, and as far as this drawing

was concerned I knew that would be a figure that was essential. I knew the light could not show inside of that block.

446 Q. Did Mr. Jack ask you to leave that dimension blank? A. Yes.

447 Q. Was that request made after he had seen this tracing?

A. I think it was while I was working on it.

448 Q. Was it far enough along so that you had inked in words?

A. No; I cannot remember just what stage the drawing was in.

449 Q. Did Mr. Jack request you to leave that dimension blank at any time after this tracing was completed?

A. I would have had it in if I had got instructions.

450 Q. Did he request that you leave the figures blank at any time after this tracing was completed and had been inspected by him?

A. I didn't just get that question.

451 Q. You prepared this tracing and left the dimension, the distance between blocks and the forward end of the screens blank? A. Yes.

452 Q. I ask you if Mr. Jack requested you to leave that blank after this tracing had been completed?

A. No, not after it had been completed. I would have put that dimension in.

453 Q. Not if Mr. Jack requested you to leave it blank?

A. If the tracing was completed.

454 Q. The tracing is completed now and it is not in?

A. I mean as complete as it is now.

455 Q. Did he ever make that request of you after the tracing had been so far completed that he could tell what this line marked, "Between blocks on forward end of screens," was?

A. I don't know he paid sufficient attention to where I had my dimension lines from.

456 Q. The blue-print made from that tracing, introduced as Claimants identification, 5-5, the white figures on the blue-print are the same figures that appear on the tracing? A. That is correct.

457 Q. And the ink figures that appear on the blue-

print were inserted by you, were they, with the exception of the figures "46'-10'"?

A. These are all my own figures as far as I can see, very similar to mine, check up, of course it is possible to copy anything, any draughtsman would take any draught or print and give him time make a copy of it. I inserted some of the figures, some of the figures in after the print was made.

458 Q. What I am trying to get at is simply this: which of the ink figures on the blue-print were inserted by you?

A. As far as I can see most of them, all of them in fact inserted by me.

459 Q. Does that include the figures "46'-10'"?

A. Yes.

460 Q. You inserted that? A. Yes.

461 Q. Who gave you that figure? A. Mr. Jack.

462 Q. Did he give you any other figures to be inserted on this blue-print? A. No.

463 Q. All of the other figures on the blue-print are your own figures?

A. Of course I was doing it for Mr. Jack.

464 Q. I wish you would explain why it was all of the figures were inserted by you from your notes with the exception of the one figure "46'-10'"?

A. My instructions from Mr. Jack was that the figure in connection with the light screens, the distance between light screens, would be given to me by him after the surveyors had made their measurements.

465 Q. Did you ever see Mr. Jack's notes?

A. I can't remember just what form they were in, he had a book I suppose, or a note on a piece of paper.

466 Q. Did you check this blue-print with Mr. Jack from his notes?

A. He was round all the time I was making the drawings.

467 Q. What I want to get at is whether this blue-print was checked with Mr. Jack's notes, if you know, in your presence? A. I cannot remember.

468 Q. This blue-print then represents your measure-

ments taken by you as correct, except you say this figure should be 47-3 $\frac{3}{4}$ inches, the figure "46'-10'"? A. Yes.

469 Q. I think that is correct?

A. Forty-seven three and three-quarter inches.

MR. HAYDEN: Forty-seven seven and three-quarters.

470 Q. Mr. Cameron, do you remember the approximate date when that blue-print was completed in its present form when those figures were put in?

A. No, I cannot, I cannot remember just exactly.

471 Q. Can you remember just approximately with reference to the date of the survey made by Mr. Walker and Mr. Jack? A. Some days afterwards.

472 Q. Within a week afterwards?

A. I think within a week.

473 Q. When it was finished did you turn the papers over to Mr. Jack, the tracing and blue-print?

A. I gave them to my immediate superior for Mr. Jack, I understood it was all for Mr. Jack.

474 Q. Were other copies made of that blue-print taken from this tracing? A. I cannot say how many.

475 Q. Could you tell me approximately how many?

A. No, I don't remember.

476 Q. Were there 2, 3, or 4?

A. Two I know, may have been more, I don't remember.

477 Q. Do you remember whether you were instructed as to the number you were to make?

A. No, I don't. I don't know that I got any special instructions.

478 Q. You turned them over to your immediate superior. Did you have any information or know what happened to them after that?

A. I don't know I bothered my head; that was the end of it as far as I was concerned.

479 Q. Did Mr. Logan ever make a request to you for copies of this blue-print? A. No.

480 Q. Did Mr. Frank Walker ever make a request to you for copies of this blue-print. A. No.

481 Q. You had no request for a copy of this blue-print

after it passed out of your possession into the hands of your superior?

A. I cannot remember any particular request.

482 Q. Do you remember any request?

A. I don't remember. I am not clear upon that point, whether any request for copies was made.

483 Q. Do you know what happened to the blue-print?

A. I understood it was given to Mr. Jack.

484 Q. When were the repairs to the Strathalbyn completed approximately, what time?

A. I am not sure whether it was in March or April.

485 Q. Do you know when the Strathalbyn sailed after the collision? A. I don't know.

486 Q. The tracing which you made for repairs to the Strathalbyn were made subsequent to this tracing and blue-print, you stated you made other measurements and a tracing for repairs?

MR. HAYDEN: It has nothing to do with this.

A. Yes, for our own use, new plates.

487 Q. You mean your own records in repairing the vessel?

A. When we repair we generally make and keep a new diagram of plates.

488 Q. Referring to exhibit C. V. 1, you stated that this figure in the middle marked "A,"—the windlass,—the figure from which I have drawn a line out and marked with a letter "A," is that the windlass on the forecastle head of the Strathalbyn?

A. It is meant to note the position of the windlass.

489 Q. As you have it here the windlass is approximately in the middle of the forecastle head, is that correct?

A. How do you mean in the middle? The dimensions are given here 16.7.

490 Q. I mean from the middle line?

A. Yes, would be midships on the centre line.

491 Q. Where is the drum of that windlass, could you indicate that?

A. The drum of the windlass—the windlass does not have a drum.

492 Q. I want you to point out where the drum would be?

A. Do you mean where the chain goes over, it is a chain linked to a cable, and the chain comes up over that and into the chain lockers; you mean the gipsy-heads?

492 Q. Where would the gipsy-head be?

A. Somewhere out here (indicating on sketch), probably both sides, I don't remember. I only made this sketch to get the location so when we renewed the deck we could put it back again in the same position.

494 Q. Referring to exhibit C. V. 9, I wish you would state just what that is in a general way?

A. That as far as I remember is a list of all the necessary particulars to make this tracing.

495 Q. Where was this list obtained from, that is where did you get the data that is on this list?

A. That is what I started out to get, this, to lay out this information as called for in the letter, embody it, I thought these items necessary.

496 Q. The different data here was your understanding of what was required by the letter referred to you for attention from Huffner & Hayden—the distance between the outboard edges of the blocks and the forward end of the port and starboard screens, is that the measurement you put on the blue-print and left blank?

A. Yes, that is not the "46'-10'," but that is the dimension where the arrow heads are.

497 Q. That is the dimension marked "46'-10'" on the blue-print, it is the dimension you have got in there; I understand you now to state "46'-10'" is not correct "between blocks on forward end of light screens," it was to comply with this note, exhibit C. V. 9?

A. No, this "46'-10'" was put long after I made this note, this was the first note before I started out to do anything.

498 Q. This information which you made a note of here was the measurement which should be given on the line marked, "Between blocks on forward end of screens," is it not? A. Yes.

499 Q. And that measurement was made by you?

A. Yes.

500 Q. But was not inserted? A. Not inserted.

501 Q. Why?

A. Mr. Jack told me that they would take that dimension together, the different surveyors.

502 Q. And did Mr. Jack assist you in any way in making up the notes on C. V. 9, as to what information would be required?

A. Well, in the letter, whether he gave me any particulars, between him and the letter I understood what was wanted.

503 Q. I don't know whether I quite understood exhibit C. V. 10, the two lines here with the arrows pointed in with the figure, "8," between, as I understood was the support for the bulwark rail?

A. Yes.

504 Q. These supports, what are the dimensions of them? A. 5-9 and 12 feet, and so forth.

505 Q. That is just an iron bar?

A. That is a bulb plate.

506 Q. A few inches in width?

A. Not a few inches. I cannot remember the thickness; probably half an inch or five-eighths, but the bulb would be an inch and a half, that is the width fore and aft, the width of it would be half an inch or five-eighths and the bulb an inch and a half.

507 Q. You, as I understood, dropped a plumb-line from the inward side of this bulwark rail to the deck, would that be inside of this support?

A. Yes, it would be.

508 Q. So that support would necessarily be at a slight angle to support the rail?

A. Yes, it is 18 inches out at the bottom, you see.

509 Q. You refer to the exhibit C. V. 12, and to the drawing marked 12-4 on that exhibit, which purports to be a detail drawing of the light screen; do you remember which light screen you measured on the Strathalbyn?

A. This one here particularly.

510 Q. Please state which you mean, on which side,

do you remember which light screen you measured to get that?

A. The light screens on the chart-room deck.

511 Q. You measured them both, did you?

A. Measured them both; I have a note of one on the flying bridge—screens same as below.

512 Q. You measured all four screens and they were all exactly the same? A. Yes.

513 Q. Were the rails round the flying bridge and the chart-room bridge approximately the same distance from the ends of the respective bridges, across the ship, a line across the ship, that is the distance from the rail of the flying bridge to the end of the bridge, approximately the same?

A. Approximately the same—I am not sure.

514 Q. I wish you would look at this exhibit C. 13, and tell me the width of the flying bridge, you see what I mean? A. The extreme width over all?

515 Q. Yes?

A. According to the note it is 49' 1 $\frac{3}{4}$ ".

516 Q. What would be the width of the chart-room bridge?

A. I have not got that dimension, I have got it to the screen, to this part (indicating).

517 Q. What is the width of the cabin deck?

A. Forty-nine feet one and a half, the heel of the bulkhead bounding bar to the heel of the bulkhead bounding bar on the other side, measured from here to here (indicating).

518 Q. What is this?

A. This is from the rail, bulward rail, extreme width of the bulwark rail, 48' 10 $\frac{3}{4}$ ".

519 Q. You haven't the measurement across at the chart-room there?

A. I haven't that because in laying down the section I have got the width there, width there, and width there (indicating). I have got three points, I just draw a line through and that gives it exactly.

520 Q. Can you tell me from this drawing how much the vessel tumbles in from her main cargo deck at the flying bridge?

A. You mean tumbles in at this point here, the extreme point?

521 Q. Yes, that is the only way you could get the tumble in of the vessel?

A. That would hardly give it. This bottom has a nosing and if you come along here you get the half-round of the other.

522 Q. What I want to get is the tumble in of this line, line of the ship itself from the main deck?

A. I would like to give you that.

MR. HAYDEN: He could give you the tumble-in up here to the cabin deck.

A. (Continued) Yes, I have taken it up here to the next deck and that to the rail, you could not get out here to take that dimension.

523 Q. So from your figures you could not give the tumble-in?

A. Not at that point. I can give it here.

524 Q. That is cargo-deck to the cabin-deck? A. Yes.

525 Q. How much is that?

A. It is half that you see, it is that on either side, $23\frac{3}{4}$, that is $11\frac{7}{8}$ the, that is the tumble-in from the cargo-deck to the cabin-deck.

526 Q. Does that line from the cargo-deck to the cabin-deck give you the line of the superstructure there of the vessel?

A. Yes, must be the fair line of the boat, should be a fair line as I believe it was.

527 Q. This figure here $46-6\frac{3}{4}$ that is to the inside of the outside board of the light screen?

A. I explained that to you in this other, as to this.

528 Q. That is what I mean, the outside and the inside line, the outside of the fore and aft sideboard of the light screen? A. Yes, fore and aft.

529 Q. Did you make any measurement between the brackets of which there has been so much talk?

A. No.

530 Q. Not requested to make that measurement?

A. No.

531 Q. Was not the purpose of having these drawings made to ascertain the centre of the lights, was not that your understanding?

A. To get at the relative position of the two lights.

532 Q. In connection with that you were not requested to make any measurement between the brackets?

A. There was no mention made of brackets although I saw a bracket there that the lamp fastens to.

534 Q. Mr. Hayden asked you about these figures, the lower part of this exhibit,—C. V. 13,—the portion marked C. V. 4; $46-6\frac{3}{4}$, and the figures $2-0\frac{1}{8}$, underneath which is a subtraction of the first two figures; I understood you to say you don't remember now what that was, or the purpose for which it is made?

A. No, I cannot remember just what that was, a little side calculation.

535 Q. At the time you made these measurements did you have in mind there was any question as to whether the lights were obscured?

A. No, I did not.

536 Q. I call attention to Claimants exhibit 5-5 and the figure $48-6\frac{7}{8}$ ths from inside to inside of bulwark rail? A. Yes.

537 Q. And I also call your attention on Libellants exhibit, C. V. 13, drawing 13-2, $46-6\frac{3}{4}$ inside light screen, with those two figures in mind have you any fresh recollection what these calculations were made for, that subtraction?

A. No, it has been something that has just occurred to me and I made a little side subtraction there for my own benefit I suppose.

538 Q. Is it not a subtraction of the distance from the inside to the inside bulwark rail?

A. I would not say it is the same figure, it is that dimension I have been using.

539 Q. It is a subtraction eight feet forward of the superstructure and the distance on the inside to inside fore and aft of the light screens, you don't remember why that was taken? A. No.

MR. HAYDEN: Is not that possibly the fore and aft side-board of the light screens?

THE WITNESS: Yes.

540 Q. Referring to drawing 13-5, on exhibit C. V. 13,

that is the rough draft of the electric light globe?

A. Yes, of the lamp.

541 Q. Where is the electric lamp itself, where would that be placed with respect to this drawing?

A. It would be inside here somewhere, the lamp is shaped like a quadrant.

542 Q. Do you know how far inside of the light screen; you made no measurements except the distance?

A. No, you see that had the actual lamp right there.

543 Q. You didn't measure it?

A. No, I did not take the particulars of the lamp other than that.

544 Q. You don't know whether the centre of that lamp came even with the fore end of the light screens or not?

A. No, I did not take that measurement.

545 Q. On Libellants exhibit C. V. 14, you have made a subtraction of the same 46-6 $\frac{3}{4}$, which is the distance between the outside of the fore and aft side-board of the light screen—is that correct—and the distance of 48-7, which measurement appears on Claimants exhibit 5-5, as being the measurement between the bulbs at the top of bulwark rail, 5-9 forward of the superstructure; at the time you made this deduction you did not have in mind there was any question about the visibility of that light or possible obstruction to it?

A. I cannot remember when I made that little calculation there, it is some little thing came to my mind, some subtraction I had in mind.

546 Q. When was your attention first called to this measurement of 46-10? A. I don't remember.

547 Q. When I say, called to that measurement, I mean when it was first stated to you that measurement was incorrect? A. I don't remember.

548 Q. I understood you to say you put those figures in at the request of Mr. Jack; was anyone else present when you put them down?

A. He gave me the figure, I just went to the table and put it down myself, no body with me at the time.

549 Q. Did he have his note-book in his hand?

A. I don't remember what he had, might have had a piece of paper or a **note-book**.

550 Q. Did he state at that time that measurement had been agreed upon by the surveyors?

A. He merely gave me that figure and told me that was the figure; I had been expecting the figure to be given to me.

551 Q. Did you call his attention at that time or any prior time that you had a different figure for that measurement?

A. I don't know I saw him after that to discuss it.

552 Q. Did not it occur to you at that time there had been some mistake?

A. It didn't agree with what I got myself, but it was some figure they had all measured up themselves, the different surveyors were to get the figure, and that was the figure I was to put in there.

553 Q. Did not it occur to you to speak to Mr. Jack at that time and tell him you had obtained a different figure? A. No, I did not want to argue the point.

554 Q. Did you think at that time there was a chance of your being mistaken in your figure and of Mr. Jack being correct?

A. No, I was sure of my figure between the screens.

555 Q. It appears rather odd to me if you knew that figure was incorrect, and still when Mr. Jack gave it to you you made no objection, but placed it on without calling his attention to it?

A. Well, he told me that they had all checked that figure up and he would give me that figure, I just left it blank; then when he gave the figure to me I put in the figure; I did not want to raise any question; whether they understood the dimension to come just exactly where I have my arrow-heads, or not I don't know.

556 Q. What did he say to you when he gave you that figure?

A. Merely gave me the figure and said that was the figure to put in there.

557 Q. On this blue-print? A. Yes.

BY MR. HAYDEN:

558 Q. Referring to exhibit C. V. 9, which is a list of information which you went out to get, did you make that list of information before you made the sketch, I mean this tracing? A. Yes.

559 Q. Did you write the information on the tracing to correspond with the information that you wanted on this C. V. 9?

A. This C. V. 9 is a list of information necessary to get to make the tracing, before I could proceed to make the tracing.

560 Q. You laid out the tracing in accordance with that information?

A. As a result of that before I started out, I made a note of several things I wanted, this is several little notes rather than a result of them.

561 Q. The block in the forward end of the light screen was a natural fixture you would measure to, or would measure upon the ship?

MR. BOGLE: I object to that as cross-examination of your own witness.

MR. HAYDEN: Let the Court decide whether it is cross examination.

(The witness did not answer.)

562 Q. After the delivery of the blue-print and tracing introduced this evening did you ever make another blue-print and tracing?

A. After I delivered the tracing, I could not.

563 Q. Well then, you didn't?

A. After I delivered the tracing, after Mr. Jack got it do you mean?

564 Q. Yes.

A. I cannot remember, I cannot remember how many prints I made.

565 Q. Did you ever make any other blue-print on which these figures—in which you put the figures in ink than this one?

A. I am not sure whether there was more than one, there may have been another one, I can't remember,—blue-print.

BY MR. BOGLE:

566 Q. Who instructed you the number of blue-prints to take from that tracing?

A. I can't just remember.

567 Q. Do you remember whether Mr. Jack told you or not? A. I don't remember.

568 Q. You have not any recollection at all now as to who told you that?

A. No, I haven't, no, I can't remember whether I was told how many prints to take or who I was to take them for; Mr. Jack naturally told me to take some prints but not just how many; I knew there must be prints wanted.

(Filed Oct. 13, 1913.)

DEPOSITION OF WILLIAM HENRY LOGAN.

Examination of witnesses, beginning December 1st, 1913, upon board the Steamship Strathalbyn, at the Weyerhaeuser Lumber Co.'s loading dock in Everett, Washington, in said District, before W. A. WELLS, a Notary Public in and for the State of Washington, residing at Everett, special examiner by stipulation of counsel, on behalf of the Libelant.

PRESENT, W. H. HAYDEN of Huffer & Hayden, proctors for Libelant and Lawrence Bogle of Bogle, Graves, Merritt & Bogle, Proctors for Respondent.

IT IS HEREBY STIPULATED and agreed that the testimony of William Henry Logan, John Sandilands and William Gilroy, witnesses in the above entitled cause, taken at this time, may be read and introduced in evidence in this case for all purposes, subject only to the objections now made, and that said testimony may be taken before W. A. WELLS, a Notary Public in and for the State of Washington, residing at Everett, and may be taken by said Notary Public in shorthand and transcribed by him and it is hereby expressly agreed that the signatures of the witnesses to said testimony and the reading of the same by them is hereby waived.

WILLIAM HENRY LOGAN, a witness called

to testify in behalf of the Libelant, being first duly sworn on oath, deposes and says:

DIRECT EXAMINATION.

BY MR. HAYDEN:

Q. What is your name?

A. William Henry Logan.

Q. Were you one of the gentlemen who, in company with Mr. C. P. M. Jack and Mr. Frank Walker, surveyed the Strathalbyn in Esquimault while she was on the dock there being repaired after her collision with the Virginian? A. Yes.

Q. Were you one of the gentlemen who signed the blue-print along with Mr. Jack and Mr. Walker?

A. Yes.

Q. And that is the blue-print that was exhibited to you when your testimony was taken in Victoria recently? A. Yes sir.

Q. Did you today make a survey of the Strathalbyn in Everett with Mr. James Fowler, W. Frank Andrews, E. C. Generaux and Mr. Frank Walker.

A. Yes sir.

Q. Did you see Mr. Fowler, Mr. Andrews, Mr. Generaux and yourself sign the report of survey which I will now ask the stenographer to mark Libelant's Identification X1? A. Yes.

Q. Have you particularly noticed whether or not the Strathalbyn is in the same condition she was in at the time you made the measurements just referred to as far as the measurements are concerned that are specified in Identification Z-1?

A. I don't see any difference.

Q. Referring to the measurement of 46 feet 8 $\frac{7}{8}$ inches for the total distance between the outside of said iron brackets, will you state what makes the difference between that measurement and 46 feet 10 inches that you have testified to as the distance between the iron brackets?

A. The measurement at Esquimault was taken over the skylight, and was not so carefully taken as the measurement today.

Q. How was the measurement today taken?

A. It was taken clear of the skylight so that the tape was perfectly fair.

Q. Would the sky-light cause the distance to be greater or less than the distance found today?

A. We measured over the skylight today too.

Q. What did you find the distance measured over the skylight today? A. 46 feet 9½ inches.

CROSS EXAMINATION.

BY MR. LAWRENCE BOGLE:

Q. That is the only way that you could account for the difference in that one measurement?

A. That is what I consider would be the reason.

Q. These measurements in Esquimault were made when? A. It was in February, 1912.

Q. You haven't been aboard the vessel since that time have you Captain?

A. I haven't been on board ever since she left Esquimault, that was sometime after the measurement was taken.

Q. That was a little less than two years ago?

A. It is eighteen months ago—about a year and eight months ago.

Q. Captain, you appeared here today at the request of Mr. Hayden proctor for the libellant? A. Yes.

Q. Do you know whether or not these other gentlemen appeared at the request of Mr. Hayden?

A. No.

RE-DIRECT EXAMINATION.

BY MR. HAYDEN:

Q. Do you remember, in my requesting you to come here, the reason I gave for so doing?

MR. BOGLE: Objected to as being immaterial.

A. You told me that the Strathalbyn was here, and wanted to retake these measurements.

Q. That is all I told you wasn't it? A. Yes.

That's all.

(Witness excused.)

JOHN SANDILANDS, a witness called to testify in behalf of the Libellant, being first duly sworn on oath deposes and says:

DIRECT EXAMINATION.

BY MR. HAYDEN:

Q. What is your name? A. John Sandilands.

Q. Were you on board the Strathalbyn the night she had the collision with the Virginian on January 12th 1912? A. I was.

Q. What was your position? A. Chief Engineer.

Q. You testified in this case before? A. Yes, sir.

Q. State what you have been doing since that time.

A. Held the same position on this ship all the time.

Q. State how much of the time you have been on board this ship?

A. I have been on her except a week end.

Q. What do you mean by week end?

A. Left once on Friday and came back on the following Monday.

Q. What time did you leave on Friday?

A. Afternoon train sometime, the second engineer was in charge any time I was away.

Q. Who was the second engineer? A. Mr. Gilrov.

Q. State whether or not there has been any change of any kind, character or description in the ship that would affect the distance between the light screens on the chart-room deck, or the brackets in the light screens on the chart room deck of the Strathalbyn, since her collision with the "Virginian"?

A. There has been no alteration at all so far as I know; the time I was on the ship, so far as I know no alteration at all, never been touched.

Q. Has the position of the light screens been altered in any way? A. No sir.

Q. Has the position of the bulwark rails above the chart-room deck been altered in any way? A. No sir.

Q. Have the bulwark rails forward of the superstructure in the center of the ship to the forecastle head been altered in any way. A. No sir.

CROSS EXAMINATION.

BY MR. LAWRENCE BOGLE:

Q. Where are your sleeping quarters aboard ship?

A. On the starboard side alongside of the engine room.

Q. That is in the after part of the ship? A. Yes.

Q. Where you are on duty, your chief duty is in the engine-room? A. Yes.

Q. You have no duties aboard ship which would carry you to the chart-room deck? A. Oh yes.

Q. Do you pay any particular attention to any other part of the ship?

A. Oh yes, all over the ship; when in dry-dock, need any repairs.

Q. Do you pay any particular attention to what is going on on the ship at sea?

A. I know all about that certainly.

Q. If the light screens were changed in any way aboard the ship would you be bound to know it?

A. Certainly.

Q. Why?

A. Anybody that has got their eyes open in any position on the ship would know what was going on.

Q. Isn't it a fact that you spend most of your time in the engine-room?

A. Yes, and all over the ship; I very seldom go off the ship when in port.

Q. What is the name of your ship's carpenter?

A. I don't know, not the same carpenter now you know.

Q. The Strathalbyn has been in Scotland since the date of this collision hasn't she, she has been in her home port? A. Oh yes.

Q. When was she in her home port?

A. We left Newcastle-on-Tyne the 15th of July—the middle of July this year.

Q. When did you arrive there; how long were you in Newcastle? A. Two days I reckon.

Q. Where were you in the first part of this year, January of this year?

A. January, I forget now—Antwerp.

Q. Was this time you were in Newcastle the only time you have been in Scotland this year?

A. Yes, the only time.

Q. The Captain and first Mate who were on board the Strathalbyn are not with her now?

A. I don't know where they are.

Q. Where did they leave the ship?

A. They left the ship after they made a round voyage at Dunkirk.

Q. Where is Dunkirk?

A. One of the French towns.

Q. Do you remember when that was?

A. I was just trying to remember, October last year.

Q. They were with the ship then up to October this year? A. 1912.

Q. And have not been with the ship since then?

A. No sir.

Q. This time you left the ship for the week end, is that the only time you have been off the ship? A. Yes.

RE-DIRECT EXAMINATION.

BY MR. HAYDEN:

Q. Did you say you left the ship for two week ends? A. Once.

Q. Since you have joined the ship you have been twice home, and only once since the collision? A. Yes.

That's all.

(Witness excused.)

WILLIAM GILROY, a witness called to testify in behalf of the Libelant, being first duly sworn on oath, deposes and says:

DIRECT EXAMINATION.

BY MR. HAYDEN:

Q. What is your name? A. William Gilroy.

Q. Were you on board the Strathalbyn on January 12th 1912 when she came in collision with the "Virginian"? A. Yes sir.

Q. What position did you occupy then?

A. Third engineer.

Q. What position do you occupy on the Strathalbyn now? A. Second Engineer.

Q. Where have you been engaged since the 12th day of January 1912. A. On the Strathalbyn.

Q. Has there been any change in the structure of the Strathalbyn that would modify or change the situation, location or distance between the port or starboard side light screens on the bridge deck since the collision

with the Steamer "Virginian" on January 12th 1912?

A. There have been no alterations.

Q. Have you been upon board the ship at all times when Mr. Sandilands has been ashore? A. Oh yes.

CROSS EXAMINATION.

BY MR. LAWRENCE BOGLE:

Q. How many times have you been away from the ship? A. Twice.

Q. What length of time?

A. Saturday to Thursday the first time and from Monday afternoon to Wednesday afternoon the second time.

Q. Were you on board the ship when she went in dry-dock on July 13th in Newcastle?

A. I was aboard half a day just when she went in dry-dock.

Q. She was in dry-dock for two days? A. Yes.

Q. Have you used the chart-room deck lights since the date of this collision. A. Oh yes.

Q. What lights do you use?

A. They are oil lamps, that is all I know about them.

Q. You have used the oil lamps on the chart-room deck since the date of this collision, what was the reason for that? A. The dynamo was broken down.

Q. When was that?

A. From October 7th until February——

BY MR. HAYDEN: What year?

A. The beginning of this year.

BY MR. BOGLE:

Q. Do you know where Captain Crerar is?

MR. HAYDEN: I believe that is immaterial.

A. I believe he is in Rotterdam where his home is, that is all I know.

Q. Is he at the present time on any of the Strath boats? A. I have no knowledge of that.

That's all.

(Witness excused.)

WILLIAM HENRY LOGAN recalled:

BY MR. HAYDEN:

Q. Where is Captain Crerar now?

A. I was told that he had gone into the ship chandlery business in Rotterdam.

BY MR. BOGLE:

Q. Do you know where First Officer Purdy is?

A. No one knows where he is.

(Witness excused.)

(Filed Jan. 9, 1914.)

DEPOSITIONS OF JAMES W. LEE AND THOMAS S. BURLEY.

Testimony of witnesses in behalf of libelant, JAMES W. LEE and THOMAS S. BURLEY, taken pursuant to stipulation heretofore filed herein, before R. J. McMillan, U. S. Commissioner, April 18, 1914, at Tacoma.

The libelant appearing and being represented by its proctors, Messrs. Huffer & Hayden,

The respondent, claimant and cross libelant appearing and being represented by Mr. Lawrence Bogle, of proctors.

WHEREUPON, the following proceedings were had and done, to-wit:

MR. JAMES W. LEE, being called and sworn in behalf of libelant, testified in rebuttal as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. What was your business on the 12th of January, 1912? A. I was a photographer.

Q. And you are still in that business? A. I am.

Q. Did you make any pictures of the steamship "Strathalbyn"? A. I did.

Q. When she was lying out here in the Bay off Tacoma? A. Yes, sir.

Q. I will ask you, referring to "Lee's Identification No. 1," if you took that picture? A. I did.

Q. Did you develop that picture? A. I did.

Q. Is that picture exactly as it was developed by you? A. It is, exactly.

Q. Did you touch up the plates in any way, shape or manner in connection with that picture?

A. Not a bit in the world.

Q. About how far from the Strathalbyn were you when you took it?

A. I was in the neighborhood of about 100 feet as near as I can guess.

Q. I will call your attention to the somewhat blurred appearance of the picture, and ask you what caused that?

A. It was on account of the mist getting on the lens; it was very misty that morning; and there might be a probability that the boat rocked to some extent, and that may have caused it to some extent.

Q. Did you have any directions from me in taking that picture? A. I did.

Q. When you took that picture, did you observe whether or not the light screen on the lower bridge could be seen from the point where you took that picture?

A. It could; they could be seen.

Q. Will you please take this pen and without getting right close up to the spot on the picture, but close enough to indicate it, point out on the picture if you can, where the light screen was seen on the lower bridge?

A. It was right here (indicating); you can see a little bulge or projection there.

Q. Extend that line you have drawn a little further and put your name after it? A. Yes, sir, I have.

Q. Now, did you make an enlargement of that picture? A. I did.

Q. When did you take the picture "Lee's Identification No. 1"?

A. On the morning of the 13th of January, 1912.

Q. Do you know about what time in the morning?

A. Well, it was between one and two o'clock in the afternoon, not in the morning.

MR. HAYDEN: I offer this "Lee's Identification No. 1" in evidence.

(Photograph marked "Lee's Exhibit No. 1.")

Q. Now, is this the enlargement you made from that picture?

A. I made the enlargement from the original negative.

Q. Explain how you make that enlargement?

A. I took the negative and placed it between the light and the camera or lens; the negative would be here

and the lens would be here, and then the sensitized paper is here (indicating) and the further back I move that the larger the picture. It is simply a magnified photograph made from the negative.

Q. From the same plate that the small picture is made from? A. Yes, sir.

Q. Now, referring to this enlarged picture, "Lee's Identification No. 2-A," take this pen and draw a line from the light screen on the lower bridge that shows in that picture? A. Yes, sir, here.

Q. And put after that line your initials?

A. Yes, sir, I have, "J. W. L."

Q. Now, referring to the small picture "Lee's Exhibit No. 1," did you observe the light screen on the upper bridge? A. I did.

Q. Where does that appear in the photograph "Lee's Exhibit No. 1?"

A. That appears a little above,—right here.

Q. Draw a line out from that upper light screen?

A. Yes, sir, here.

Q. And mark that "Upper screen"?

A. Yes, I have.

Q. Will you also make a similar line to show the upper screen on "Lee Identification No. 2-A"?

A. Yes, sir, I have marked it "Upper screen."

Q. State whether or not the light screen on the lower bridge was plainly visible to your eyes from the point, I believe you said about 100 feet ahead of this steamer at that time?

MR. BOGLE: That is objected to as leading.

A. It was.

Q. State what you saw as near as you recollect, of that light screen, that is the lower light screen?

A. It projected out about 12 or 14 inches past the stanchions, and I would judge it was the same height, about a square box, 15 or 16 inches square. I was some distance away; I don't recollect seeing a light in it or whether there was one in it or not.

Q. Referring to Lee's Exhibit No. 1, please indicate on this picture a line that will show the relative position of the camera to the picture?

A. A photograph is always taken towards the cen-

ter of the picture; it does not make any difference what kind of a picture,—if there is none cut off at the side on this other picture, the enlargement, No. 2-A, that is the case; but No. 1 shows it. This would be the direction in which it was taken (indicating).

Q. And where would the camera be?

A. It would be out here perhaps 100 feet and possibly 10 or 12 feet above the water line, not over 10 feet I think.

Q. Indicate what line you would be taking a picture on, with some mark on the picture?

A. The camera would be out in this direction, and about 8 or 10 feet high.

Q. Now, mark the direction by a cross?

A. I would put the cross about here (indicating). The best way would be to draw a line from each side and down to the front.

Q. Well, without actually putting on the lines, mark the point?

A. I do not know that I understand exactly what you want.

Q. I want to find out about where the camera would be located when the picture was taken?

A. I would have to state it was located about 100 feet from the center of the picture,—from about where this scow is.

Q. Towards the bottom of the picture?

A. Yes, towards the bottom of the picture.

Q. Beyond the bottom of the picture as a matter of fact; is that right?

A. Yes, it would be beyond the bottom of the picture.

Q. Then drop a line down showing about where it would come? A. On this line (indicating).

Q. Now, the camera would be somewhere on that line, further than the bottom of the picture?

A. Yes.

Q. You cannot show the place on the picture, but it would be off here (indicating)? A. Yes.

Q. At a point beyond the photograph and to the bottom of it; is that what you mean?

A. I think that would be the nearest to get at it.

I will put a cross up here and mark "Camera pointed towards cross."

Q. Yes, that will do.

(Witness indicates on photograph.)

MR. HAYDEN: We offer the enlargement as "Lee's Exhibit No. 2-A."

MR. BOGLE: We object to that as improper.

(Photograph marked as "Lee's Exhibit No. 2-A.")

CROSS EXAMINATION.

(BY MR. BOGLE.)

Q. When did you say the pictures were taken?

A. On the 13th of January, 1912.

Q. How do you fix the date in your mind?

A. I made a memorandum.

Q. At the time you took it? A. Yes.

Q. Who instructed you to take the picture?

A. Mr. Hayden.

Q. The attorney for the Strathalbyn?

A. Yes, sir.

Q. Was this picture taken the morning after the collision?

A. About one or two o'clock after the collision.

Q. When did Mr. Hayden get in touch with you?

A. Just about noon I think,—as I remember.

Q. And he gave you some instructions in regard to taking the picture. A. Yes.

Q. What were those instructions?

A. He instructed me to go out there and get in front of the boat as near as possible and photograph the screens on a direct line with the stanchions. I did the very best I could on that. The wind was blowing bad and waves were moving the little boat around that I was on. I was on the little "Fawn," and I made two or three attempts to get it. That was the only one I got in that position. It showed the lights very plainly from the view I took it.

Q. Was that the purpose of taking the picture, to show the light screen? A. Yes.

Q. You were instructed particularly with reference to the light screen? A. Yes.

Q. To see if that extended out beyond the stanchions? A. Yes, sir.

Q. And you made a memorandum at the time you took it?

A. Yes. It was a short memorandum stating the time and condition of the weather.

Q. Have you that with you? A. Yes, sir.

Q. Please let me see that? A. Yes, here it is.

Q. Which photograph is the photograph No. 1?

A. The one marked "Lee's Identification No. 1."

Q. Now, as I understand your testimony, the camera was placed in a line with the line you have drawn through the center of the picture? A. Yes.

Q. And what size lens did you have?

A. It was a wide angle lens, intended for $6\frac{1}{2}$ by $8\frac{1}{2}$ lens.

Q. What is a wide angle lens?

A. Wide angle lens is a lens that embraces a certain distance. An ordinary lens is called a long focus, comparing it with the wide angle lens.

Q. That is, it takes a certain distance each way?

A. Yes. The wide angle lens takes in all the way from 70 to 100 degrees.

Q. There is more divergence?

A. Yes, that is what I should have said.

Q. You attempted to place yourself in position directly ahead of the Strathalbyn?

A. Directly ahead of it, yes, sir.

Q. Do you consider you placed yourself in such position?

A. I placed myself in such position, as near as I possibly could.

Q. And do you consider that at the time the picture was taken you were directly ahead of the Strathalbyn?

A. No, I would not say I was. If I had been and at that distance I could not have got the light on the outside of the stanchions.

Q. Why is that?

A. For the reason that the angle on the boat would cut off my view from the lamps if I were directly ahead; so that I had to get on a direct line ahead of the left side of the boat, so as to show the lights projecting out.

Q. Then you consider you were in a line directly parallel with the port side of the vessel?

A. Yes, sir.

Q. And not directly ahead of the vessel?

A. No, not directly ahead of the vessel.

Q. The starboard side does not show in this picture?

A. No, sir, because, for two reasons. I was a little too close to it, and it was misty, and if I had to get all the lines on a less angle, I would have to get back further to get the focus, and would make the one part of the boat badly out of focus.

Q. What are these lines (indicating)?

A. This is a little lifeboat swung down and these are rods coming down (indicating). These are the davits turned out and there is a boat hanging down,—I think that is called a lifeboat, swung down there. Here are some other little boats, possibly a row-boat.

Q. Did you consider those stanchions were in line at the time you took that picture?

A. With my camera, you mean?

Q. Yes.

A. Yes, sir, they were in line, while these three or four outside here on the turn,—I don't claim they were in line; they were not, but the rest of them back towards the center of the boat were. Those last three or four stanchions were on a turn.

Q. Now you say that this line, the lower ink line you have drawn, with your initials opposite, show the light screen on the lower deck?

A. Yes, sir, on the lower bridge.

Q. And that projection which is barely perceptible in the picture, was 12 or 14 inches, you say, outside the line of the stanchions? A. Yes, sir.

Q. Now, you noticed that at the time you took the picture? A. Yes, sir.

Q. You could not tell it from that picture itself, could you?

A. I could tell there is an object projecting out. The fact that the picture is blurred has a tendency to round it.

Q. Did you notice the coaming on the lower bridge rail, that is the lower bridge on which this light screen is placed, projects out, and there is a coaming on the end. Now, do you see that in this picture?

A. Well, it is with such a little lens that it is almost invisible.

Q. Do you see it at all?

A. I don't say that I do. There is a light place underneath this; if it is anything painted light, that would be it.

Q. Will you show me where the coaming of that lower bridge is? A. What is the coaming?

Q. The extreme end of the bridge on the port side; what you might call the deck?

A. In my opinion the extreme end of the bridge did not come out as far as the lights were.

Q. They did not come out as far as the lights were?

A. I don't think so.

Q. You think the light projected out over the extreme end of the bridge?

A. If there was anything, it was simply the little place the light set on.

Q. Did you notice the construction of that light particularly. A. No.

Q. Looking back where you say you could see it plainly, what could you see?

A. I could see the box, and the place where the light should be if there was one.

Q. Could you see how it was fastened, whether at the end of the bridge or at the end of the deck?

A. It was fastened to the end of the bridge, I think; I would not be positive.

Q. Did you notice whether or not the deck beneath the light projected beyond the outermost portion of the light?

A. How far beneath the light?

Q. As a matter of fact, I think the testimony shows that the light screen set a few inches from the lower bridge deck; did you notice whether or not the lower bridge deck extended out beyond the light screen?

A. I don't believe I can tell whether it did or not.

Q. If it did extend out beyond the light screen and you could see 12 or 14 inches of that light screen in this picture, wouldn't you be able to see the lower bridge deck?

A. If it was thick enough, but if it was only three

or four inches projecting and on the bottom, then the piece here, then you could not see it.

Q. Why not?

A. If the light was standing on this edge and this part projected out, then you could not see it, because it is blurred so badly.

Q. Do you see any blur where the lower bridge shows?

A. No, only I see the place where the light was setting.

Q. Can you tell from the picture whether that is the light screen, that small spot, or whether it is the projection of the lower bridge deck?

A. That is the light. I saw it plain when I made the picture.

Q. Can you tell from the picture whether it is the light or the lower deck?

A. I would say it is the light.

Q. You cannot see the projection of the lower bridge at all? A. No, sir.

Q. Can you see it on this enlarged picture?

A. It is not likely; I don't know that I can.

Q. Do you know that you cannot?

A. No, I do not.

Q. Well, can you or can you not see the projection of the lower bridge on that picture?

A. Well, I guess I would have to say that I cannot see it, am not positive in regard to that. If you show me the size of it, I could tell whether I saw it or not. I may not know what you have reference to. If I saw a good picture, I might be able to say.

Q. Now, is this a good picture of it which I hand you?

A. Yes. The light object I spoke of is the one that is painted light here.

Q. Do you recognize this "Lee's Identification A.", as a portion of the Strathalbyn?

MR. HAYDEN: We will admit that.

Q. Now, do you see the light screen on that picture? A. Yes, sir.

Q. Please mark the light screen on that picture, on the lower bridge? A. Yes, sir, here.

Q. Put your initials on? A. Yes, I have.

Q. What portion of the light screen have you indicated?

A. I have indicated the top portion of it.

Q. The top portion of the light screen?

A. I think that is the top portion.

Q. Where is the bottom portion of it?

A. It is invisible here because this was taken so close. This stands back a little and does not get it.

Q. Do you know how that light screen is constructed?

A. I could not make a very close observation.

Q. Is that a block at the forward end of the light screen? A. I could not say.

Q. In looking back at the time you took this photograph, what portion of the light screen did you see so plainly?

A. The portion that projected out; this portion here (indicating).

Q. Mark that portion.

MR. HAYDEN: Can you see it clearly on that picture? A. I don't believe I can.

MR. HAYDEN: Have you any other pictures which you took that you can see it clearly on?

A. I have; here is one, and here is another.

MR. BOGLE: Q. Have you any others.

A. Yes, here is another.

Q. Does that show the light screen clearly?

A. Yes.

Q. Does this picture you have produced show clearly the forward end of the light screen and the after end of the light screen.

A. Yes, sir. This is the forward end and this is the after end (indicating.)

Q. Please mark the forward and the after end.

A. Yes, I have marked.

MR. BOGLE: We will mark that photograph "Lee's Identification No. 5."

(Photograph so marked.)

Q. Now, referring to Identification No. 5 and also "A," can you locate on Identification "A" the after and

forward end of the light screen which you have located on Identification No. 5?

A. Well, it is located here on "A," but it looks to me like it was somewhat cut off, as if there had been some hand work done on that.

Q. Can you locate the forward end of the light screen?

A. It would be right here. I will draw a line out and mark it "Forward end."

Q. How far does that forward end extend?

A. Down to this dark spot, I think.

Q. And can you locate it up above.

A. This is the top.

Q. How far does it come out?

A. No, I couldn't hardly tell by this picture.

Q. Looking to the bridge above, and that dark object, is that the forward end of the light screen on the upper deck?

A. That looks like part of it, but it looks as if it was not all there. It looks like it should project out as much again as it does.

Q. If that was the entire forward end? A. Yes, sir.

Q. Can you tell from the photograph and your recollection, whether the light screen extends out as far as the end of the deck?

A. No, the light screen does not extend out as far as the end of the deck.

Q. And the end of the deck does not show on Identification 1, or the enlargement?

A. No, sir, it shows there, but it shows a light object of the same color as the sky.

MR. HAYDEN: Mark the light object you refer to with the letter "A."

A. Yes, I have marked it, "Light object A," on Lee's Identification A.

MR. HAYDEN: Now, you were going to refer over here on Identification 1?

A. Yes, sir, I will mark it "Light object A," on Lee's Identification 1.

MR. BOGLE: The light object A. you have marked on that is the angle plate, on Identification "A"?

A. Yes.

Q. And what is the dark object out here?

A. That must be the railing around the foot of the bridge.

Q. Is that light or dark?

A. That is apparently painted light and under here you get a shadow.

Q. You say that is apparently light?

A. Yes, evidently; the same color as this, but it is probably a little dark and there is a shadow cast under there from the projection.

Q. It does not appear light on the picture?

A. No, sir.

Q. Does it appear any lighter than the light screens? A. The bottom of it does not.

Q. Can you identify that on Identification No. 1?

A. No.

Q. Referring again to Identification No. 1, this light object you have marked here, extends out about the same distance as the light screen, doesn't it?

A. Just about. It shows light; it is very light on this end where it projects out and it is hard to see, on account of being the same color as the sky.

Q. As a matter of fact, can you see anything sufficiently clear on Identification 1 to identify as to what it is? A. I could not say what it is, no.

Q. This portion of the light screen which you say shows on Identification 1, is that the after or forward end of the light screen? A. That is the forward end of it.

Q. Does the after end show?

A. Not on this picture.

Q. Why?

A. Because the boat was straight towards me.

Q. In looking back at the light screen at the time you took the picture, could you see the after end-

A. Well,— (interrupted)

MR. HAYDEN: Be fair to the witness; he says he does not know much about light screens.

MR. BOGLE: But you have introduced the witness to show these things.

A. I cannot stand in front and see the after end.

Q. But you testified you saw the light screen perfectly clear? A. Yes.

Q. Which end? A. The front end of it.

Q. Did you see any portion of the aft end?

A. I saw the side of it but I could not see the after end from that point, not if I understand what the after end is.

Q. On Identification 5, you have marked the after end.

A. Well, I couldn't see the after end from the front of the ship.

Q. In looking back at the time you state you took this picture and saw the light screen perfectly clear, did you see the front end; you have marked on Identification 5 the after end? A. The front end.

Q. Did you see the after end?

A. No, not at the time I took the picture; not from that point of view.

Q. So that you are sure it was the front end you saw and not the after end? A. I am sure.

Q. You say it extended out 14 inches; is that merely an estimate?

A. That is an estimate; I didn't measure it.

Q. As a matter of fact, the after end of the light screen is considerably wider than the forward end of the screen; do you know that?

A. It is wider; it is somewhat wedge-shaped.

MR. BOGLE: I offer Lee's Identification "A" as an exhibit.

(Marked accordingly.)

RE DIRECT EXAMINATION BY MR. HAYDEN.

Q. In connection with this light screen and what you saw of it, you are positive you saw 12 or 14 inches, to the best of your estimation, of the light screen projecting out beyond the stanchions? A. Yes.

Q. Whether the after end or the forward end?

A. Yes.

Q. And you saw that from a distance of about 100 feet ahead of this vessel?

A. About 100 feet ahead of the vessel, yes, sir.

Q. That is the position from which you are determining and giving your evidence of the appearance of that light screen to you? A. That is what it was.

Q. And if there had been two colored pieces of

boards, two green pieces of board, one of them $4\frac{1}{2}$ inches wide and one 12 or 14 inches wide, you would have been able to tell from your position whether it was the forward end or the after end of the light screen?

MR. BOGLE: That is objected to as cross examination of your own witness.

A. It would be pretty hard, but I think I would be pretty sure it was the front end.

RE CROSS EXAMINATION BY MR. BOGLE.

Q. Can you swear at this time that you saw 12 or 14 inches of it?

A. I will swear that I did, yes; making an estimate of it.

Q. And you were 100 feet or so away?

A. 100 feet in front of the boat, which would make it more than 100 feet to the light.

Q. And you were engaged and your attention centered upon taking the picture for the purpose of showing the screen. A. Yes, sir.

Q. Did you take any particular notice whether there was 6 or 8 or 10 or 12 inches of the screen showing?

A. I had my camera to watch and at the time I snapped the lens—I don't know whether it was exactly that much or not, that projected out; but it was in that vicinity somewhere between 6 inches and a foot or so.

Q. You were taking various pictures of this boat?

A. Yes, sir.

Q. From place to place? A. Yes.

Q. And saw the light screen in numerous places?

A. Yes, sir.

Q. Do you have any clear recollection of just how much of it showed, if any, at the time you took this particular picture?

A. I would not exactly; I could only make an estimate.

MR. HAYDEN: Q. Will you please identify these photographs by the numbers they bear and I will introduce them at this time.

(Whereupon photographs were identified and marked Lee's Identifications numbered from 2 to 18 inclusive.)

Q. Did you take these pictures? A. Yes, sir.

Q. And are they pictures of the Strathalbyn which you took here showing her damage as they purport to show. A. Yes, sir, and I made them all myself.

MR. HAYDEN: I offer in evidence this "Lee's Identification No. 5."

(Photograph marked accordingly "Lee's Exhibit 5.")

MR. BOGLE: When were Identifications 2 to 18 taken?

A. They were taken on the 13th and I believe the 15th of January, 1912. Nos. 1 to 5 were taken on the 13th.

Q. And all about the same time in the afternoon?

A. Yes, sir. And Nos. 6 to 10 were taken on the 15th; 11 to 18 were taken on the 16th.

Q. Were these all the pictures you took?

A. Yes, sir.

Q. And this was all the plates you made?

A. Yes, sir.

(Witness excused.) (Signature waived.)

THOMAS S. BURLEY, called and sworn in behalf of the libelant in rebuttal, testified as follows:

DIRECT EXAMINATION BY MR. HAYDEN.

Q. What has your business been?

A. Piloting on Puget Sound and managing tug-boat companies and all around steamship man.

Q. Did you see the steamer Strathalbyn after her collision with the Virginian in Tacoma Bay on or about the 13th of January, 1912? A. I did, the next afternoon.

Q. Were you on the launch with the photographer, Mr. Lee, when he was taking pictures of the Strathalbyn? A. I was.

Q. Were you present when he took this picture marked "Lee's Exhibit No. 1?"

A. I presume I was; we took a picture right ahead of the ship, and I presume that is the one; I did not see it developed, of course.

Q. Did you while you were ahead of the ship make any observations with the object in view of ascertaining whether or not the side light screen on the port side of

the ship could be seen from a point directly ahead; that is, the side light screen on the lower bridge of the Strathalbyn? A. Yes, sir.

Q. State what was the result of your observations?

A. When we went out there first we swung the launch around about fifty feet ahead of the ship. That was too close, so I turned around and we went off about one hundred feet ahead of the ship. We tried to get as near as we could right square ahead but there was a little wind and tide, and it was hard to hold the launch in position, but from our position I could see both side screens; there were no lights in the screens.

Q. On which side of the ship?

A. The port side. The starboard side we were unable to see anything at all on account of the mass of wreckage, and also they had a scow at No. 2 hatch, discharging lumber.

Q. What light screens did you see?

A. Both of them; one on the upper bridge and one on the lower bridge.

Q. You could see that from what position?

A. From the position standing along side the photographer at the camera.

Q. Where was the launch at that time with respect to being ahead of the ship?

A. Well, we were ahead of the ship when the photographer put that cloth over his head, but there was a little southeast wind and I think the launch drifted a little bit, but we were as near ahead as it was possible to get, by the judgment of your eyes anyway.

Q. Would you say from your observation that the side lights, had they been in those screens and burning, could have been seen from a ship approaching the Strathalbyn, bow on, and on a line parallel with the Strathalbyn's keel projected?

MR. BOGLE: That is objected to as being leading.

A. If you could see the side screens, you could certainly see the side lights when they were in the screens.

Q. About how much of the side light screen on the lower bridge on the port side would you say you could see?

A. There was a small block of wood in the front,—

in the forward end of the screen. I could just see the bare outline of that, possibly not more than two inches projecting, but the after part of the screen, you could see very plain.

Q. Now, I want to ask you a hypothetical question: Suppose a ship, called the *Virginian*, another ship called the *Flyer*, were coming from Seattle to Tacoma, and that the *Flyer* overhauled the *Virginian* somewhere about Three Tree Point, and the *Flyer* was going faster than the *Virginian* and when she got somewhere on or about half way between Three Tree Point and Robinson Point the *Virginian* was somewhere a half a mile or something like that astern of the *Flyer*, the people on the *Virginian* who were navigating her heard from a point ahead one blast from a steamer which they say, and assuming for the sake of the question, they could not see, and after hearing that signal they heard the *Flyer* blow one whistle; that after hearing the exchange of those whistles approximately a minute elapsed and they heard another whistle from a point ahead which whistle was not answered by the *Flyer*; and assuming that another minute passed and they heard still another whistle from a point ahead, each of the whistles being a one signal, one blast whistle, a passing signal, what in your opinion would be the practical, usual maneuver to be performed by the navigator on the *Virginian*?

MR. BOGLE: Object to that on the ground that the witness is not shown to be qualified as navigating expert and also that it is an incorrect statement of the entire testimony in the case.

A. Do I understand you to say that the people on the *Virginian* heard the whistle first and then heard the *Flyer* blow?

Q. Yes.

A. And then after the *Flyer* answered they heard two other whistles?

Q. Yes. A. Blown at intervals?

Q. Yes.

A. Well, I should judge the vessel was coming in the direction of the *Virginian* and that the *Flyer* had passed her, giving the port passing signal, and passed her.

Q. And what would be your answer to my question as to what the navigating officer should do on the approach of the *Virginian*?

MR. BOGLE: I renew my objection, and also object on the ground that it is not proper rebuttal.

A. In answering the gentleman's question about my knowledge,—(interrupted).

MR. BOGLE: You may answer the question; that is merely my objection.

A. Well, I think if I had been on the vessel under those conditions,—I am not particularly specifying this *Virginian*, but supposing myself on another vessel, a steamer, under those conditions, I think I would be inclined to port because I would naturally think that inasmuch as the *Flyer* was directly ahead of me, as you describe,—(interrupted).

MR. BOGLE: I think that is not in the question.

A. Well, I understood he stated the *Flyer* had passed the *Virginian* and then they heard a whistle right ahead.

Q. That is the way it is.

A. I would be inclined to think then that there was,—at least I would know the *Flyer* had passed the vessel on the port passing signal, and I would port then as a matter of safety. But that is really a hypothetical question, because there are so many conditions that come up in navigation that you have to act very quickly; the same conditions which come up with me many times on this Sound where I have put the wheel hard aport and turned around and headed the other way, in order to avoid, as I thought, possible collision.

CROSS EXAMINATION BY MR. BOGLE.

Q. In that case, could you see the other vessel and know where she was?

A. The last time that happened to me I was approaching Robinson Point with the *Bellerophon* in the night time, and I could see the white light, but the port light was out, and I put my wheel hard aport. He blew one whistle to me and I turned right around the other way.

Q. Referring to the former question of Mr. Hayden's, when would you, if you had been on the *Vir-*

ginian as navigating officer, have ported the Virginian?

A. That is a very hard question to answer, because as I have stated, there are so many different situations coming up, that it would be very hard to say right now, inasmuch as I was not there, just what moment I would have ported. I think I would have ported right away, the minute I heard the first whistle; the minute I heard the second, anyway.

Q. That is the first whistle answered by the Flyer?

A. No, the first whistle after the Flyer had answered.

Q. You think that would have been the proper navigation on your part, if you had been in charge of the Virginian? A. Well, it would have been safe.

Q. Do you think it would have been safe, captain?

A. I think so, yes.

Q. Under the circumstances, if you were on the Virginian and could not see any light ahead at all, do you think it would be proper and safe navigation to have ported your vessel?

A. I think so, for this reason, that if the Flyer had blown first and the other vessel answered and I had not seen any light, of course I would have known the Flyer was overtaking another vessel, but inasmuch as you state in your question that the other vessel blew first and the Flyer answered, I would naturally suppose then, especially if the Flyer was ahead of me, that I had something over on my port side.

Q. On your port side? A. Yes, on my port side.

Q. Would that whistle necessarily indicate that it was coming directly towards you, so that porting, you would have missed her? What if she had been on crossing course?

A. She would not have given the port whistle then; I would not get a port whistle on a crossing course.

Q. The port whistle means the vessel blowing would leave you to her port?

A. She will port her helm and her head would go to starboard.

Q. She would leave you to her port?

A. Yes, sir, port to port.

Q. Then there is no circumstance except when ap-

proaching each other that they use the port whistle, is there, as I understand you? Don't they use it when they are crossing? A. Oh, yes.

Q. How would it have been if she was crossing the Virginian; would that have been safe under all circumstances where you could not see the other vessel?

A. When you meet a vessel between Three Tree Point and Robinson Point, you can be almost sure she is bound down Sound, because there are no places where she can be crossing.

Q. But you know it is a large vessel; are you allowed to take such a fact for granted in navigating a large vessel?

A. If they give me a port whistle, then I must naturally suppose that they are going to pass me on my port side.

Q. And if you could not see him, you would port?

A. I think I would, yes, as a matter of safety.

Q. Would you answer his whistle?

A. Not unless I could see him.

Q. But you would port?

A. If I could see his lights, I would answer.

Q. But if you could not see his lights, would you port nevertheless?

A. If I could not see his lights and I heard a vessel coming, a vessel ahead of me, I think I would be inclined to pretty hard aport and turn the other way. I have not been in the habit of meeting vessels without lights.

Q. That is, if you could distinguish the whistle as being directly ahead? A. Yes.

Q. But if you could not distinguish exactly where it was?

MR. HAYDEN: The answer filed admits the whistle was directly ahead, and the witnesses testify so, and I do not think the question assumes the fact in this case, and I object to it for that reason.

Q. It may have turned out later that they were directly ahead, but the witness is speaking about an officer on the Virginian, under the circumstances.

A. The question was put to me, that the whistle was right ahead.

Q. But if you were on the Virginian and could not distinguish exactly where the whistle was?

A. If I could not distinguish where it was, I think I would stop the ship and go full speed astern.

Q. Would not that be the safe navigation?

A. Not always; sometimes you get in trouble by full speed astern, by losing control of your vessel.

Q. Wouldn't it be proper navigation on your part to stop after the first whistle, when you are not able to pick up anything, and if you hear another whistle, to go full speed astern?

A. I do not like to answer that, inasmuch as I was not on the bridge of the Virginian; it is awfully hard to judge what you would do. There are so many different situations. You could get a thousand different situations in one trip from Victoria to Tacoma.

Q. But you have answered that proper navigation would have been for him to have ported?

A. I answered the question that he asked me, if I got a whistle right ahead, and then he explained the circumstances with regard to other whistles previous, with regard to the Flyer and the Strathalbyn.

Q. Would the fact that the Flyer answered the other whistle indicate that she had already passed her at the time of the second whistle? A. Yes.

Q. That would indicate she had passed her within a minute after she answered?

A. The second whistle would indicate that the other steamer had passed the Flyer.

Q. You think that would be indicated? A. Yes.

Q. And you still say you think that would be the only safe navigation?

A. Well, no, I don't say that. You asked me my opinion, but I would not say as to what would be safe navigation under those circumstances, inasmuch as I was not there.

Q. Were you in charge of the small launch at the time these pictures were taken? A. No, sir.

Q. You were not navigating her? A. No.

Q. How did you happen to go out?

A. I owned the boat.

Q. You own the "Fawn"?

A. Yes, sir; that is, I am part owner; manager of the company, the Tacoma Tug & Barge Company. If I remember right Mr. Hayden informed me the photographer was going down and asked me if I would go out; I don't know whether he said to assist or help him or something of the kind. It is not quite clear how I came to be there. I think Mr. Hayden telephoned me.

Q. Did he say anything to you at that time about paying any particular attention to the side light screens?

A. I think he did.

Q. This was the day after the collision?

A. Yes. I am not clear on just how I came to be out there. I think Mr. Hayden asked me and I possibly went out partly through curiosity.

Q. You remember some conversation about the side lights?

A. Yes, I think there was some conversation over the 'phone.

Q. This photographer took a great many pictures in various positions.

A. Yes. We took a picture ahead of the ship.

Q. You mean directly ahead?

A. This one here, Lee's Identification No. 1.

Q. Was that taken directly ahead?

A. We were directly ahead of the ship when he put the cloth over his head, but she may have drifted a very little.

Q. Which way?

A. The wind was from the south, so that she would drift to the port side.

Q. To the port side?

A. No, I think the other way. It would hardly be perceptible; he was very quick.

Q. How did you determine you were directly ahead of the ship? A. By looking along the line of her masts.

Q. And they were directly in line?

A. They were when he put the cloth over his head.

Q. And were they afterward?

A. No, sir, she drifted a little.

Q. Doesn't the picture show you were not directly ahead of the ship?

A. Well, I would not like to say. There may be

something about the camera of course that I don't know anything about, but according to this we are not directly ahead of the ship, or the main mast would be directly back of the smokestack.

Q. Does that picture show you on the port side of the ship? A. Yes, a little on the port side.

Q. And you noticed particularly at the time that you could see a part of the forward end of the light screens? A. Yes, sir.

Q. You are sure of that?

A. Quite sure, and if I remember right the light screens on the upper bridge were setting right on the deck, and the light screens on the lower bridge were up above the deck.

Q. Did you notice whether or not the deck on the lower bridge extended out beyond the light screens?

A. I don't remember that.

Q. There was considerable wind that day?

A. Not considerable, not very much; it was raining and a little wind but not much.

Q. Was the vessel on the beach at the time?

A. She was, yes.

Q. And you were standing on the deck of this small launch when you saw part of the forward end of the light screen?

A. Yes, I wanted to get a line on the cargo stanchions; I could see with my eye a good straight line of the cargo stanchions right up to the bridge. Of course when they got around to the fore mast they start to come in with the shape of the ship.

Q. But you could not see either starboard light screen?

A. No, on account of the wreckage and list of the vessel, and the scow. But if I remember right we did go around on the scow and I think we took a picture of the screens on the starboard side.

Q. Have you ever seen that picture since it was taken?

A. No, sir, I have been away; we took a great many pictures that day. We took a picture ahead of the ship and one around on the starboard, and took a

picture loading off the scow, and several pictures of the wreckage. I think we took four or five that day.

Q. And this was in the afternoon?

A. It was after lunch; I could not recollect the time.

Q. What were they doing aboard the Strathalbyn at the time?

A. They were discharging lumber in No. 2 hatch on to lighter.

Q. Do you know how much lumber they discharged?

A. No, there was probably, if I remember correctly, twenty or thirty thousand feet on the scow.

Q. Had they discharged any lumber from the deck load?

A. I think they were discharging from the deck load.

Q. Were any of the lashings in place on these stanchions at the time?

A. I was not on the ship. I think I was on the scow.

Q. You think you could distinguish the forward from the after end of the light screen from a distance of 100 feet ahead, on a rainy, misty day?

A. I could just see this small projection of the piece that was in the front end of the light screen, and then the after end was plain.

Q. You could distinguish the two portions of the light screen from that distance? A. Yes.

Q. On a rainy day?

A. Yes. Of course that small speck might have been a couple of inches projecting beyond the stanchions. Possibly one stanchion was tilted more than the other.

Q. You think you were directly ahead of the ship at the time?

A. As near as I could judge with my eye. The picture itself shows that.

RE DIRECT EXAMINATION BY MR. HAYDEN.

Q. Now, Captain, what has been your experience as navigator on Puget Sound?

A. I have been a master of vessels on Puget Sound for nineteen years. I have been pilot on the Blue Funnel

Line for fourteen years, in fact, ever since the line ran here, and on the Northern Pacific Steamship Company previous to that.

Q. And any other experience?

A. I have been to sea all my life.

Q. And have you had anything to do with tug-boats?

A. I have been master of tug boat on the Sound from 1895 up to the time that Captain Gatter died about fifteen years ago, and then I went as pilot for the Northern Pacific Steamship Company, and then from them to the Blue Funnel, and I have been with them since.

(Witness excused.)

(Signature waived.)

(Filed May 28, 1914.)

DEPOSITION OF CAPT. W. S. MILNOR, ET AL.

Testimony of CAPT. W. S. MILNOR, F. C. HOFSTETTER, and HARRY SWANSON, witnesses on behalf of Libelant, taken at Tacoma, Washington, March 18, 1914, before Raymond J. McMillan, U. S. Commissioner, under the order of the above named Court, and stipulations by proctors of the respective parties, it being particularly stipulated that the testimony of the above named witnesses may be used without objection on account of the said witnesses not reading or signing their testimony, which signing and reading is particularly waived.

The Libelant appearing and being represented by Mr. W. H. Hayden, of proctors for Libelant.

And the Respondent and Cross Libelant and Claimant appearing and being represented by Mr. Lawrence Bogle, of proctors.

WHEREUPON, the following proceedings were had and done and testimony taken, to-wit:

W. S. MILNOR, a witness called and sworn in behalf of the Libelant, testified as follows:

DIRECT EXAMINATION BY MR. HAYDEN.

Q. Your full name, Captain?

A. Walter S. Milnor.

Q. Are you the same witness who heretofore testified in this case? A. I am.

Q. While the "Flyer" was moving towards Tacoma and when you saw the lights on the "Strathalbyn" as she was coming towards the "Flyer," do you know whether or not those lights burned steadily before the collision?

A. Before the collision the lights I saw were burning steadily.

Q. Did they or did they not flare up and go out and flare up again and go out and continue in succession that way? A. No, sir, they did not.

Q. After the collision, did the "Flyer" pull away from the "Strathalbyn" and head on to Tacoma and leave the "Strathalbyn" astern? A. Yes, sir.

Q. Did you remain on deck and observe the lights of the "Strathalbyn," after the "Flyer" started to pull away from her? A. Yes, sir.

Q. Did you observe that the lights on the "Strathalbyn" were steady? A. Those I saw were steady.

MR. BOGLE: We object to that as being immaterial, being after the collision.

Q. Will you tell us, please, what you observed with regard to the lights on the Strathalbyn after the collision and after the Flyer started to pull away?

A. As we were coming towards Tacoma I stood on the after deck of the Flyer watching the Strathalbyn. The Strathalbyn was headed towards Robinson's Point and I could see her port light and her mast-head light for some distance. The Strathalbyn was going very slowly and we were going very fast. I did not keep any record of the time that the lights remained in view. They were finally cut off from us.

Q. Cut off by what?

A. My impression was by the angle of the Point. She was headed toward the Point as I thought for the purpose of being beached.

Q. That is Robinson's Point? A. Yes, sir.

Q. And you say she was cut off by the angle of the Point?

A. Yes, probably she passed beyond our range of vision.

Q. The Flyer was coming towards Tacoma and the Strathalbyn was on the Seattle side of Robinson's Point?

A. Yes, sir.

Q. And the Strathalbyn's course caused Robinson's Point to intervene, and the red light was cut off?

A. Yes, sir.

Q. So that you saw the red light on the Strathalbyn after the Flyer had passed Robinson's Point?

A. We passed Robinson's Point and headed towards Dash Point, and for quite a while the lights of the Strathalbyn remained in view.

Q. Did you see the mast-head light of the Strathalbyn about that time? A. Yes, sir.

Q. And did the mast-head light and side light of the Strathalbyn appear to be steady or otherwise?

A. Steady, sir.

Q. Did they flare up and go out and flare up and go out and flare up and go out in succession?

A. No, sir.

CROSS EXAMINATION BY MR. BOGLE.

Q. You testified in this case before? A. Yes, sir.

Q. And you did not testify on any of these points before?

A. I don't remember what I did testify before. I could not say whether I testified on these points or not.

Q. What lights did you see before the collision?

A. I saw,—(interrupted).

MR. HAYDEN: We object to that as having been gone into and is not proper cross examination at this time.

MR. BOGLE: The witness has been asked about the lights flaring up, etc.

Q. What lights did you see before the collision?

A. Two white lights; one was the mast-head light and the other—as we afterward came up, I saw was the light shining from an open port.

Q. You did not see her port lights at all?

A. No, sir, not before the collision.

Q. How long did you see this mast-head light before the collision? A. I don't recollect now.

MR. HAYDEN: Object as having been gone into on the prior examination and not proper cross examination at this time.

Q. I want to find out for what interval you ob-

served the light; how long did you see the light before the collision?

A. I think for several minutes, according to my best recollection.

Q. I think you went out, didn't you, when the *Flyer* answered the *Strathalbyn's* whistle?

A. My recollection is that I was reading the paper in the cabin, and was about finishing it, and folding it up, and heard the whistle blow, and I went out to see what we were passing.

Q. I think you testified heretofore that you were in a strongly lighted cabin?

A. Yes, sir, and my eyes were not accustomed to the darkness.

Q. Did it take you some little time to become accustomed to the darkness?

A. Yes, sir. The forward blinds are pulled down, or the shades, at night to keep the light from the cabin from shining forward, and I was out on the port side, and my vision was interfered with by the lights still shining through the cabin windows.

Q. And it was from that position you observed the mast-head light?

A. Yes, sir. I was standing abaft the midships.

Q. And from that position you did not notice that it flared up and that it went down?

A. No, sir. It was burning steadily to my vision at that time.

Q. Now, Captain, you testified that after the collision the *Flyer* went back to the *Strathalbyn*?

A. Yes, sir, and also went to the *Virginian*.

Q. And at that time you saw the mast-head light?

A. I must have seen it when we went back.

Q. Do you remember whether or not you noticed it?

A. Yes, I know I noticed it. I am positive I must have noticed the mast-head light, because we were expecting the *Strathalbyn* to sink, and I saw her lights.

Q. Did you pay any particular attention to her mast-head light as you approached her after the collision?

A. Not any especial attention. I saw the light burning steadily.

Q. You did not watch it steadily?

A. Yes, I kept my eyes on that light except for one interval during which I left my position and reported to the Captain of the Flyer my presence on board, so that if he needed me in any emergency. During that time I did not watch.

Q. But what I am getting at is this: were you watching the positions of the vessels or keeping your eye fastened on this mast-head light all the time?

A. Oh, I was not keeping my eye fastened on the mast-head light. I was observing the vessels as far as I could.

Q. You didn't pay any more attention to the mast-head than the side lights and outline of the vessel?

A. There was one light that afterward drew my attention from the mast-head light. It was a lantern lowered over the side of the boat to see how big a hole was knocked into her, evidently.

Q. That lantern was lowered over the side of the Strathalbyn? A. Yes, sir, that is my recollection.

Q. You are sure of that?

A. Not absolutely sure, but that is my recollection. I have not taxed my memory with it for a long time. There was great confusion at the time.

Q. This collision occurred over two years ago, being in January, 1912?

A. Well, to tell the truth, I couldn't swear whether it was 1912 or 1913. It must have been longer than last January, though.

MR. HAYDEN: It was in January, 1912.

(BY MR. BOGLE.)

Q. Have you kept this matter in your mind since that time? A. No, sir.

Q. So that it is very clear in your mind now?

A. Not all the details, no, sir. I have rarely thought of it since my last testimony. There was no reason for me to keep it in mind.

Q. How long did you stay alongside the Strathalbyn and the Virginian?

A. Just a few moments, to ask if they needed help and to reply to questions from them.

Q. As you approached the two vessels, they were headed in towards the shore, were they?

A. The Strathalbyn was. She backed away from the Virginian and then swung on port helm to go to Robinson's Point.

Q. She did that while you were there?

A. But we were moving. I don't know whether we came to a dead stop or not but we were in that vicinity.

Q. But did she swing on port helm and towards Point Robinson while you were there?

A. Before we left.

Q. Did she swing in at the time you came up?

A. I could not tell whether she was swinging or going in a straight line. My recollection now is she was slightly—well I couldn't say whether under port helm or not.

Q. As you pulled away, she was following you?

A. No, sir. We were headed towards Dash Point and she towards Robinson's. She was nearer inshore than we were at the time.

Q. This collision occurred over towards Pulley Point? A. Yes, sir; very near midway between the two.

Q. How far was she out from the mainland?

A. I could not say exactly.

Q. She was some considerable distance from Robinson's Point?

A. When she had backed away from the Virginian, to the best of my recollection, she was nearer Robinson's Point than Pulley Point.

Q. Was she nearer the mainland than to Vashon Island? A. Maury Island.

MR. HAYDEN: That is objected to as not proper cross examination.

A. Robinson's Point is on Maury Island.

Q. Was she nearer the main land than Maury Island?

A. No, sir, I don't think so. My recollection is that Maury Island was her nearest beach.

Q. And she was headed towards Robinson's Point as you passed Robinson's Point for Dash Point?

A. We passed astern of her and she was headed in for Robinson's Point.

Q. Before you left she had straightened around on her course for Robinson's Point?

A. That is my recollection. We circled down to the Virginian and headed back towards Seattle and then swung again for the Strathalbyn, after leaving the Virginian.

Q. On which side did you come up on the Strathalbyn?

A. On her starboard quarter, and passed astern of her.

Q. And headed for Dash Point? A. Yes, sir.

Q. And she at that time was headed for Robinson's Point? A. Yes, sir, she was.

Q. Where were you standing when you observed this mast-head light?

A. First I was on the port side of the Flyer abaft the midships; subsequently I was up along side the pilot house of the Flyer and in front of the pilot house. Afterward as we drew away from her, I went aft and stood on the after deck of the Flyer with several others.

Q. How far was the Strathalbyn from you when you were on the after deck? A. I couldn't tell you that.

Q. Well, approximately?

A. Well, I couldn't approximate it. I have not tried to fasten it in my mind.

Q. You observed what lights then?

A. I observed the port light and mast-head light.

Q. You saw a port light then? A. Yes, sir.

Q. Were you further away from her then than when you passed her originally prior to the collision?

A. Oh, yes; I am satisfied much further away.

Q. You could see her port light at that time?

A. Yes, sir, for awhile.

Q. Did you see her starboard light at all after you had gone away from her after the collision?

A. I saw her starboard light, if I remember now, after she had backed away from the Virginian, and we were headed toward the Virginian. It brought her starboard light within our range.

Q. That is after the collision? A. Yes, sir.

Q. When you were along side pretty close?

A. Fairly close, yes.

Q. How long did you stand on the after deck of the Flyer watching this mast-head light and port light?

A. Until it was cut out from our view.

Q. She must have been then right in on the beach?

A. I presume so; the impression of those who were watching and discussing was that they had succeeded in beaching her.

Q. Were you standing during all that time and watching this mast-head light and port light?

A. Yes, sir. Once or twice I took my eye off from the Strathalbyn and looked at the Virginian.

Q. Where was the Virginian during this time?

A. She was coming up; she was apparently on the other side of Robinson's Point.

Q. As the Strathalbyn went across from the point of the collision to Robinson's Point, did you notice the position of the Virginian?

A. I noticed the Virginian, yes, sir.

Q. On which side of the Strathalbyn was the Virginian?

A. At that time she would be on the starboard quarter of the Strathalbyn, between the Strathalbyn and Pulley Point.

Q. She was on the other side of the Strathalbyn from you?

A. Yes, sir, but the Virginian was further off shore than the Strathalbyn; that is, I mean further away from Robinson's Point.

Q. As the two vessels crossed this channel towards Robinson's Point, how close was the Virginian to the Strathalbyn?

A. Oh, they were too far away to determine that.

Q. Were they apparently very near together?

A. No, they were not close together.

Q. Was the Virginian following up pretty to the Strathalbyn's beam?

A. Oh, no, the Virginian was not near the Strathalbyn's beam then; to my recollection she was off the starboard quarter of the Strathalbyn.

Q. That is, on the north side of her?

A. Yes, sir, on the north side.

Q. You understand that I mean during the entire

interval from the collision as they passed over toward Point Robinson?

A. You see, I was not watching the Virginian very closely. Now and then I turned my eyes on her.

Q. Isn't it a fact that during that interval the vessels were close together? A. After the collision.

Q. After the collision as the Strathalbyn went over to Robinson?

A. No, sir, I don't think so. After the Strathalbyn backed away from the Virginian and headed towards Robinson's Point, the distance between them constantly increased.

Q. The Virginian did not keep up pretty close?

A. No, sir; not from our point of view.

Q. Did you pay any particular attention to the Virginian during that interval?

A. Not especially; only occasionally taking a glance over towards her.

Q. Were you watching the Strathalbyn during all that time?

A. Yes, with the exception of a few intervals when I would turn my eyes toward the Virginian.

Q. Were you a mile away from the Strathalbyn?

A. At any time?

Q. At the time you were watching her?

A. Oh, I watched her as far as we could see her; more than a mile away.

Q. And you could see her port light all that time?

A. I would not say that. As she passed inshore and we got abaft her beam, we would not be able to see the port light.

Q. Did you see it up to that time?

A. I could not tell you how long I did see it; I saw it for awhile until something cut it off.

Q. What you were particularly watching was the Strathalbyn's mast-head light?

A. I was watching the dark outline of her hull and her lights. The reason we were watching the lights was that we expected to see her go down.

Q. You had previously been along side of her?

A. Yes.

Q. And she told you she needed no assistance?

A. She said they thought she could make it. The Captain asked if they needed help, and they said, no.

Q. Still you continued to watch?

A. Yes, because she had a heavy list and in my opinion she would not be able to make it at that time.

Q. It was rather peculiar that the Flyer would leave her out in mid-stream, then?

A. I was not in command of the Flyer, sir.

Q. You were not particularly watching the mast-head light, but were watching to see where the vessel went?

A. Watching the general contour of the vessel, and the light told us where the vessel was. It was a pretty black night.

Q. Did you see any other vessels in this vicinity during that time?

A. No, sir, I did not. I don't remember seeing any.

Q. You did not see any other vessel after you left the Strathalbyn?

MR. HAYDEN: Same objection.

A. The Strathalbyn and the Virginian and the Flyer were the only vessels I remember being around.

Q. At any time until you lost sight of the Strathalbyn around Robinson Point?

A. I don't think we passed any other vessel on the way to Tacoma.

Q. But I mean, did you see any other vessel in the vicinity of the Strathalbyn?

A. No, sir, I cannot remember any now.

(BY MR. HAYDEN.)

Q. As I understand, your impression was that the Strathalbyn was heading in to make a landing or make the beach inside Robinson's Point? A. Yes, sir.

Q. And your impression was gained by observing the course the Strathalbyn was taking? A. Yes, sir.

(Witness excused.)

(Signature waived.)

Whereupon, an adjournment was taken until Two P. M.

Two P. M.

MR. F. C. HOFSTETTER, a witness called and sworn in behalf of the Libellant, testified as follows:

DIRECT EXAMINATION BY MR. HAYDEN.

Q. Your full name? A. Fred C. Hofstetter.

Q. Where do you live?

A. 1112 E. 58th Street, this city.

Q. What is your business?

A. Merchant, harness and sporting goods.

Q. Your place of business is on Pacific Avenue?

A. 1513 Pacific Avenue.

Q. Were you a passenger on the Steamer Flyer coming from Seattle on the night of the collision between the Steamers Strathalbyn and the Virginian? A. I was.

Q. Where did you remain on the Flyer from the time she left the Colman Dock until after this collision?

A. On the outer deck of the Flyer.

Q. Do you remember passing the Steamer Virginian on that trip? A. I do.

Q. Where were you on the Flyer about the time you passed the Virginian?

A. On the port side of the boat, a trifle forward,—well on the port side of the bow of the boat, forward of the cabin, and within speaking distance of the lookout on the Flyer.

Q. Did anything occur to attract your attention to the Steamer Strathalbyn?

A. The lookout on the Flyer reported "A vessel off the port bow, sir".

Q. Are those the words he used?

A. Those are the words he used, yes, sir. It was answered by one blast of the whistle from the Flyer and replied to by one blast of the vessel we were approaching which proved to be, I believe, the Strathalbyn.

Q. Between what points was the Strathalbyn and the Flyer at that time?

A. Between Three Tree Point and Point Robinson.

Q. When your attention was attracted to the Strathalbyn, could you see her or make her out in any way?

A. Only as far as the lights were concerned; I could see the masthead light and the red and green sidelights.

Q. How did those lights appear to be burning?

A. Ordinary, same as customary for such lights to appear under like conditions.

MR. BOGLE: We object to that as being a conclusion.

Q. State whether or not you could see them clearly and distinctly?

A. I could see them,—(interrupted)

Q. About how far away would you say the lights were when you first saw them?

A. Some place between a half a mile and three-quarters of a mile.

Q. Did you continue to observe those lights until the Strathalbyn reached the Flyer? A. I did.

Q. Did you observe whether or not those lights burned steadily or flared up and down and went out and came up again, in somewhat alternate succession?

MR. BOGLE: Object to that as leading and suggestive.

Q. Did you observe whether or not the lights that you saw on the Strathalbyn appeared to be burning steadily or whether or not they were flaring up and dying out and flaring up and dying out in alternate succession?

A. They appeared to be burning steadily, to the best of my knowledge.

Q. Did you observe at any time before the collision any other lights on the Strathalbyn than the lights you have mentioned?

A. About the time the Strathalbyn was opposite us, my attention was called to several small lights near the stern of the Strathalbyn. That was the first intimation I had of the size of the vessel.

Q. After the Strathalbyn was abeam of you, did you continue to observe her and did you observe the Virginian? A. I did.

Q. In your own way, state what you saw?

A. I stepped to the rail of the Flyer and noticed, or the thought occurred to me at least,—(interrupted)

MR. BOGLE: State only what you saw.

A. I stepped to the rail of the Flyer and noticed that the two vessels, the Virginian and the Strathalbyn appeared to be in almost direct line with each other and continuing to observe them I noticed that the bow of the Virginian appeared to have turned a trifle to the port side. This was over the stern of the Flyer to a certain

extent, that is, we passed on and in looking back I noticed it. I believe that is all I saw up to the time—did you want me to continue?

Q. Go ahead.

A. The next thing which attracted my attention was four short blasts of the whistle followed by one blast, and in a very short time after the sounding of these whistles I heard the crash. Immediately following the crash which was quite audible, a great many passengers came out from indoors of the Flyer, and the Flyer immediately reversed engines and turned back, swinging with the bow towards the left or towards the boats. We circled back then and approached the Strathalbyn on her starboard side. By this time the boats had parted a bit and the Captain of the Flyer hailed the Strathalbyn I think about twice before he got an answer, asking if any assistance was required, and did not seem to get any answer excepting,—oh, yes, he got an answer like this: Some one replied “What the Hell was he trying to do”.

MR. BOGLE: I object to that.

A. (Continuing) We approached the Strathalbyn on the right hand side. The Strathalbyn backed off and we backed off a little and came around and then went down to the Virginian and spoke her. They replied that they would be able to take care of themselves. The Flyer then returned and spoke the Strathalbyn again and it appeared to me as if the vessel was going to sink. Someone asked us from the Strathalbyn to stand by and they then started back towards Tacoma, and the Flyer ran along side under reduced speed, close to her for some little distance. Then we proceeded on our way to Tacoma.

Q. When you approached the Strathalbyn after the collision, after the Flyer had turned around, did you notice the lights on the Strathalbyn then?

A. Yes, I observed the mast light and the green light as well as several lanterns moving about the deck.

Q. Did you have any difficulty in your mind in determining that the light you call the mast light in this testimony was the masthead light on the Strathalbyn?

A. I did not.

Q. When you were coming back, state whether or not the masthead light appeared to be steady or whether or not it appeared to be flickering up and down, up and down and going out, and coming up again, or anything of that kind? A. It appeared to be steady.

Q. You say you observed the green light and red light on the Strathalbyn when you first saw them. How long did you observe the green light; that is, was it a long time or a short time?

A. About half the time between the time I first observed them until the vessels were opposite us.

CROSS EXAMINATION.

(BY MR. BOGLE.)

Q. How old are you? A. Twenty-eight.

Q. You are not a seafaring man? A. No, sir.

Q. You are in business in Tacoma, are you?

A. Yes.

Q. How long have you been in business here?

A. For myself, a matter of between three and four years.

Q. Do you know Mr. Hayden, proctor for libellant in this case?

A. I have known Mr. Hayden, as Mr. Hayden, never intimately, but as Attorney Hayden for, I should say, six or eight years.

Q. Do you know him personally?

A. Well, I will ask you what you mean by that. I know him to speak to.

Q. That is the extent of your acquaintance, is it?

A. Yes.

Q. You have never met him socially? A. No, sir.

Q. Do you know his partner, Mr. Huffer?

A. No, sir, I do not.

Q. Do you know Capt. Beecher?

A. No, sir, I do not.

Q. When did this collision occur, Mr. Hofstetter?

A. In the spring of 1912. I could not give the exact date.

Q. When was the matter of your testimony in this case first brought to your attention?

A. About sometime late in May.

Q. 1912?

A. I think it was two years ago. I know it because the season, I think it was two years ago. It was late in the basket-ball season, I know that, because I happened to be in Seattle as an official in a basket-ball game.

Q. Who took up the matter with you there?

A. When my attention was first called to it?

Q. Yes.

A. Mr. Hayden called me up and asked me—well, he either phoned me or called upon me.

Q. And you talked the matter over then, did you?

A. Yes.

Q. Did you talk it over frequently with Mr. Hayden since?

A. We discussed it several times. At that time he called upon me.

Q. Have you discussed it since?

A. Night before last, Mr. Hayden called me up, the day before yesterday, and said he would shortly be ready for my testimony, and I called upon him here in his office that evening; that was possibly during the day. I repeated to him what I knew of the case.

Q. You discussed the case between you, did you?

A. I told him what I knew of the case.

Q. And he did not have anything to say at all?

A. Excepting to ask me questions.

Q. Now, leaving Tacoma, you were on the outer deck of the Flyer, were you?

A. We were not leaving Tacoma, but Seattle.

Q. You were on the outer deck of the Flyer?

A. Yes, sir.

Q. Forward or aft? A. Aft.

Q. How long did you remain aft?

A. Until about the time when we passed the Indianapolis.

Q. Which way was the Indianapolis coming?

A. Headed for Seattle.

Q. Where did you pass the Indianapolis?

A. I would say,—I was not paying much attention to the Indianapolis, but I would say either off Three Tree Point or a little this side.

Q. Did she pass between you and the Point?

A. Yes, to our port side.

Q. Where did you pass the Virginian on this night?

A. A short time after passing the Indianapolis.

Q. You passed the Indianapolis first, did you?

A. Yes.

Q. And she passed inside, between the Virginian and the Point?

A. The Indianapolis; I did not notice when they passed, but I think she did, because she was further distance off from us than the Virginian.

Q. The Virginian at that time was ahead of you, wasn't she? A. Yes.

Q. Do you remember about where, with reference to the shore, you passed the Virginian?

A. We were this side of Three Tree Point.

Q. You were south of Three Tree Point? A. Yes.

Q. When you passed the Virginian? A. Yes, sir.

Q. How did you pass the Virginian?

A. We approached her.

Q. You were still on the after deck?

A. No, sir, we stepped forward about that time.

Q. Did you step forward before you passed the Virginian or after?

A. Before we passed the Virginian.

Q. And you were standing on the port bow of the Flyer?

A. Yes, sir, when we passed the Virginian.

Q. Now, how did you pass the Virginian?

A. We approached her stern and came around the right hand side of her; we passed to her right.

Q. How close did you pass to the Virginian?

A. Approximately 100 yards.

Q. At that time you changed your course to pass the Virginian didn't you?

A. I could not say definitely that we did.

Q. You were coming up astern of her and didn't you pass across her stern and off to her starboard?

A. Well, we didn't exactly cross her stern, but we were coming up practically behind her and may have turned out a trifle to get around her; but it was dark and I was not running the vessel.

Q. You passed abeam of her about 100 yards off?

A. Yes.

Q. You must have changed your course to get that far off?

A. Yes, we may have turned off somewhat.

Q. How did the Flyer continue after passing the Virginian; did she continue on that same course off to starboard?

A. She continued on approximately the same course with the Virginian.

Q. You did not notice the Virginian after you passed her, did you? A. Yes.

Q. Did you turn around and watch the Virginian after passing her? A. Not particularly, no.

Q. Do you know whether you continued on the course parallel to the Virginian's course or not?

A. I know we did to the extent of having noticed her at the time after the Strathalbyn came up, then I looked back and saw her in approximately the same position, which would indicate to me that we were going in the same course.

Q. But I mean on the same compass and course; did you notice Point Robinson light at the time?

A. Yes.

Q. How did that light bear from you as you passed the Virginian?

A. Approximately straight ahead of the Flyer.

Q. That light was straight ahead of the Flyer?

A. As we were abreast of the Virginian, yes.

Q. You were headed for Point Robinson light?

A. Yes.

Q. Did you notice that light after you passed the Virginian?

A. I noticed the light during the time that the Virginian, Flyer and Strathalbyn were approaching each other.

Q. Was it still straight ahead of you?

A. Well, if anything a trifle to our left at that time.

Q. How much was it to your left; do you know anything about the compass points?

A. Not a great deal, but if there is 180 degrees in a circle, it would be between 10 and 25 points to the left. It was only a trifling amount to the left.

Q. What you mean then is 10 or 25 degrees rather than points? A. Yes, sir, a small fraction.

Q. At this time were you still on the Flyer's bow?

A. Yes, sir.

Q. Now, when did you first see the Strathalbyn's lights?

A. At the time the lookout reported her, and the Captain of the Flyer sounded her whistle.

Q. The Captain of the Flyer gave a whistle, did he?

A. One blast following the lookout's report.

Q. Where was the Virginian at that time; did you notice her? A. At the time the Flyer blew her whistle?

Q. Yes.

A. Why, she would have been,—(interrupted)

Q. But where was she? A. She was to our stern.

Q. But did you notice her position?

A. I did not at that time.

Q. You think you were from a half to three-quarters of a mile from the Strathalbyn at that time, do you?

A. I would judge the distance to be about that.

Q. And how long had it been since you passed the Virginian?

A. That would be a matter of conjecture; if I was asked to estimate it I would say from—that is, you mean from the time we blew the whistle?

Q. Yes, from the time intervening the time you passed the Virginian up to the time you blew this whistle?

A. Well, it would be between two and five minutes, I would judge, to the best of my knowledge.

Q. Is that the nearest you can get to it?

A. Well, if I was asked to get closer I would say between three and four.

Q. You think it was as long as three, do you?

A. Yes, I do.

Q. Now, from what direction did you see this light on the Strathalbyn; what was the bearing of that light from the Flyer?

A. A little to the left, and straight ahead.

Q. How much to the left; in other words, off the Flyer's port bow?

A. Yes. If we had a compass I might show about

how many points it was. (Compass handed to witness.) Now suppose the Flyer was pointed north; well, about ten points or degrees, whichever it is, here. Between ten and fifteen; you ought to give me a little leeway on that.

Q. Mark the course of the Flyer with this ruler on the paper?

A. About here, at the time of the whistling, first. (Indicating.)

Q. Put an arrow on this course showing the direction? A. Well, about this way (indicating).

Q. Could you tell the direction of the Strathalbyn?

A. Not the direction except that I knew she was approaching from the position of her lights; that is, that she was headed that way; that is approaching us.

Q. Put down there the location of the Strathalbyn at the time you saw her first? A. Here (indicating).

Q. Where would be Pulley Point.

A. Some place to our stern off here; about here (indicating). Or rather, further back. I was not paying very much attention to Pulley Point.

Q. Now, taking the point I have marked on this paper as Robinson Point, put in Pulley Point?

A. Yes, sir, here (indicating).

Q. Now put on the course of the two vessels with reference to the points?

A. At the time we first whistled, I would say we would be about here on the Flyer (indicating), and this other boat would be about here.

Q. You think the Flyer and the Strathalbyn were approaching practically head on?

A. Practically so.

Q. In the first drawing you made you have them on courses which are not head on, by any means, and in your testimony you say they are ten to fifteen degrees off. Now, which is correct?

A. Well, we were approaching head on, but she was to our left, something like that amount, when we first saw her.

Q. You mean approaching parallel courses or coming directly to you?

A. We were approaching her, and she was approaching us.

Q. But with reference to your respective courses, was she coming directly towards you?

A. I could not say that. All I could see was her lights. I could not see the Strathalbyn, but the lights.

Q. Now, which of these drawings would you say is nearer correct? A. This one would be.

Q. I will introduce this in evidence.

Whereupon said paper is marked in evidence, "Hofstetter No. 1".

Q. Now, this drawing you have made shows the relative positions of the two vessels at the time the Flyer first blew to the Strathalbyn?

A. To the best of my knowledge.

Q. And the distance between the vessels was half or three-quarters of a mile?

A. To the best of my knowledge.

Q. And the Flyer was headed inside Robinson's Point? A. A trifle.

Q. You don't know what direction the Strathalbyn was headed?

A. Not exactly, but in the general direction in which we were.

Q. At that time could you see all three of her lights?

A. Yes.

Q. Her masthead light, green light and red light?

A. Yes, sir.

Q. Then she must have been headed directly toward you?

MR. HAYDEN: We object to that as calling for a conclusion and being for the Court.

Q. You swear positively that at the time you saw all three of her lights? A. I would.

Q. And that is as true as any other testimony you have given in this case? A. It is.

Q. Did you see any other lights except the three lights you have mentioned on the Strathalbyn?

A. Not at that time.

Q. You did not see her range lights, if she had any?

A. I do not know what you mean by that.

Q. That is a white light which sets aloft?

A. I did not.

Q. She had only one light forward?

A. That is all I saw.

Q. Did you see a white light down near her deck when you were approaching her? A. No, sir.

Q. Which could have been mistaken for a range light? A. I did not.

Q. You are positive you saw the green light, are you? A. At first, yes.

Q. When she first whistled? A. Yes.

Q. Now, did the Flyer change her course at the time of the whistling, do you know?

A. Not perceptibly, no; I didn't notice any change.

Q. Could you tell whether the Strathalbyn changed her course or not? A. I could not.

Q. How close did the Flyer pass the Strathalbyn and on which side?

A. The Strathalbyn passed to our port side and if anything a trifle closer than we had passed the Virginian.

Q. Less than 100 yards?

A. I would say a trifle less.

Q. Can you make that any more definite?

A. Well, I did not measure it and distance is a little deceiving, but I would say less than 100 yards.

Q. In passing her, did you notice any other lights on her?

A. I noticed several small lights near the stern.

Q. When was that?

A. When we were abeam of her.

Q. And about 100 yards away, or less?

A. Yes, sir, less than that.

Q. Did you see her port light in passing?

A. I did.

Q. Did you see her port light at the time you saw these white lights on her stern?

A. Yes, before I saw them.

Q. When was the last you saw of her port lights?

A. Just before the bows of the three boats became opposite each other.

Q. And when they became opposite each other, what happened then?

A. Then I noticed the other lights.

Q. And paid no further attention to the port light?

A. No, sir.

Q. Did you look to see whether you could see it after that? A. I did not.

Q. You did not notice the port light then when you were abeam of her? A. No, sir.

Q. Nor when you were astern? A. No.

Q. When was the last time you saw the masthead light?

A. At the time I noticed the stern lights; the lights in the stern of the boat.

Q. You saw it at that time, did you?

A. I may have, I didn't notice.

Q. When was the last time you saw the masthead light? A. The same time I saw the port light.

Q. That was when the bows of the two vessels were opposite? A. Yes.

Q. You did not see the masthead light or the port light after that?

A. They may have been there, but I didn't notice.

Q. When did you last see the starboard light?

A. The green light—that disappeared after the boat had about half covered up the distance between them when we first whistled, until we met each other.

Q. How far apart were you when the green light disappeared?

A. Approximately one-fourth or one-third of a mile.

Q. At that time what was the bearing of the Strathalbyn from the Flyer, at the time the green light disappeared? A. She was bearing down to our left.

Q. How many points off your port bow, or degrees rather? A. Between fifteen and twenty.

Q. I wish you would indicate on this exhibit the position of the Strathalbyn when her green lights disappeared? A. About here (indicating).

Q. Mark that "Strathalbyn 2".

A. Yes (marking).

Q. The arrow you have marked "Str. 2" is the relative position of the Strathalbyn to the Flyer at the time her green light disappeared? A. Yes, sir.

Q. And it was in that position you saw the green light just immediately prior to that? A. How is that?

Q. If the Strathalbyn's green light disappeared

here, then immediately prior to that you had seen her green light?

A. I was not looking at the green light at the time it disappeared but that was the position of the boat.

Q. What I am trying to get at is, at the time, it was about at that point you last saw it? A. Yes, sir.

Q. And then she was from 15 to 20 degrees off your port bow? A. Yes, sir.

Q. Did you look back at any of these times, from the time you first whistled to the Strathalbyn until you had passed it, to see where the Virginian was?

A. Not until,—I don't have any recollection of looking back until the Strathalbyn was opposite us.

Q. Then where was the Virginian?

A. The Virginian was about 10 degrees off our stern.

Q. And how far back?

A. One-fourth to one-third of a mile.

Q. When the Strathalbyn was opposite your beam?

A. Yes.

Q. You think not more than one-third of a mile back?

A. No, she could not have been more than one-third of a mile back.

Q. And she was considerably over to your left?

A. No, not considerably.

Q. Slightly? A. Slightly to our left.

Q. You could see her plainly from where you were?

A. I stepped to the rail of the Flyer when I saw her.

Q. How were the lights on the Virginian?

A. The Virginian was pretty well lighted up. I noticed no particular lights. The entire boat was lighted up; that is, lights along her deck; that is, from the port-holes.

Q. You did not notice her running lights or mast-head or range lights? A. No, sir.

Q. How did the lights of the Strathalbyn compare with the lights of the Virginian; were they just as bright? A. Those I saw were.

Q. You think the masthead light of the Strathalbyn was as bright as the lights of the Virginian?

A. They were.

Q. Were they apparently electric lights on the Strathalbyn?

A. I could not distinguish between electric and oil, or any other lights?

Q. You could not tell?

A. No. I never gave it a thought.

Q. And the Strathalbyn's port light was a bright light, was it? A. It was when I saw it.

Q. The red light? A. Yes.

Q. Now, after first making out the lights of the Strathalbyn, did you watch them steadily up to the time you passed her? A. More or less steadily.

Q. Did you watch them steadily? A. No.

Q. Which vessel blew the first blast, the Flyer or the Strathalbyn?

A. The first blast I was conscious of was the Flyer.

Q. And the Strathalbyn answered that, did she?

A. Yes, sir.

Q. You are positive of that, are you? A. Yes.

Q. Did you hear the Strathalbyn whistle after you passed her?

A. I might have heard it, but I have no recollection of it.

Q. Do you remember any whistles after she passed you?

A. Not until the four were blown, and one other longer blast, which were more or less of a jumble, seeming to come right together.

Q. Were those four blasts one right after the other?

A. Yes, in quick succession.

Q. And then the only other whistle you heard was one long one?

A. Yes, it seemed to come in about the same time.

Q. Apparently from the same vessel?

A. I could not tell which vessel any of them came from; they were close to each other.

Q. You testified that after you passed the Strathalbyn, you went over to the rail and looked back, and that the Strathalbyn and Virginian were apparently on opposite lines to each other? A. Yes, approaching.

Q. And you heard no whistles, you say?

A. I have no recollection of any. My companion,

I might add, joined me at that time and I was talking to him.

Q. That was after the Strathalbyn was past?

A. Yes, or about the time she was passing.

Q. Now, you testified that you saw the Virginian's bow turning a trifle to port? A. Yes, sir.

Q. Tell what you saw that indicated to you that the Virginian's bow was turning to port?

A. I could see the port lights.

Q. The port lights?

A. The lights along the length of the vessel.

Q. And how far was the Virginian away from you at that time?

A. Between one-fourth and one-third of a mile.

Q. And what happened to the lights shining through the port holes; how could you tell she was turning to port? A. Because I could see them.

Q. She was running in the same general direction you were? A. Yes.

Q. Did the lights show out, or how could you tell they were moving?

A. I could see that the vessel was lined up a little that way.

Q. Moving in towards the shore, was she?

A. She was not moving much, and I could see the boat lay in that position.

Q. Had she apparently changed her course?

A. She had apparently changed her course a trifle.

Q. What do you mean by a "trifle"?

A. About a matter of 10 degrees.

Q. You judge that from the fact that the port lights changed somewhat their bearing towards you; that is the lights shining out of the ports?

A. Yes, the ones I could see.

Q. Some were shut out?

A. I could not tell, but I could tell the contour of the vessel by the lights along the side.

Q. But how could you tell from that how she was turning or had turned?

A. From the fact that I could see these lights.

Q. Had not you been able to see them before?

A. I did not notice them until I looked back.

Q. How could you tell she had turned if you had not noticed them before?

A. Because from her position and direction she was pursuing when we passed her, I rather expected she would be headed closer in the same direction than we were.

Q. But that is what you judge from, that at the time you passed her she was not headed in the same direction as when you looked back? A. Yes, sir—

Q. You passed her north of Pulley Point?

MR. HAYDEN: Allow the witness to complete his answer.

A. I think it was this side of Pulley Point.

Q. How far this side of Pulley Point?

A. I did not notice Pulley Point when we passed.

Q. So that you don't know whether it was north or south?

A. Well, I took it for granted it was south because of the apparent,—(interrupted)

Q. But do you know?

MR. HAYDEN: Let him finish his answer.

Q. But do you know whether you were north or south of Pulley Point when you passed the Virginian?

A. We were this side of Pulley Point.

Q. Did you notice Pulley Point when you passed?

A. No, but I noticed that we were approaching Robinson's Point when we whistled the Strathalbyn and that we were then not over two-thirds of the distance, I would judge, between Robinson's and Pulley Point.

Q. Two-thirds of the distance from Pulley to Robinson?

A. No, one-third, judging by looking at the Point we were coming to,—Robinson's Point.

Q. You judge that from the fact that you had passed Pulley at the time you passed the Virginian?

A. Yes, sir.

Q. From the distance you would run, merely?

A. Yes, sir.

Q. Do you know what time you were making that night? A. No.

Q. Do you know how far you had run since passing the Virginian to reach this point which was one-

UNITED STATES CIRCUIT COURT OF APPEALS
FOR THE NINTH CIRCUIT

AMERICAN-HAWAIIAN STEAMSHIP COMPANY, a
Corporation, Owner and Claimant of Steamship "Vir-
ginian,"

Appellant.

vs.

STRATHALBYN STEAMSHIP COMPANY, LTD., a Cor-
poration,

Appellee.

AMERICAN-HAWAIIAN STEAMSHIP COMPANY, a
Corporation, Owner and Claimant of Steamship "Vir-
ginian,"

Appellant.

vs.

STRATHALBYN STEAMSHIP COMPANY, LTD., a Cor-
poration, as bailee of a cargo of lumber consisting of
3,563,011 feet, and for the use and benefit of the owners
and insurers of said cargo,

Appellee.

APOSTLES ON APPEAL

(In Five Volumes)

(Vol. 3—Pages 609 to 912)

From the United States District Court for the Western Dis-
trict of Washington, Southern Division.

Testimony of MR. F. C. HOSTETTER:

third of the distance between Pulley and Robinson, from which you deduct that you had already passed Pulley Point at the time you passed the *Virginian*?

A. We had run between two and five minutes after drawing a little ahead of the *Virginian* until we whistled to the *Strathalbyn*, and it was at this time I would judge that our distance from Point Robinson was about two-thirds of the distance from Point Robinson back to Pulley Point.

Q. As a matter of fact, do you know whether or not you had passed Pulley Point at the time you passed the *Virginian*? A. To the best of my knowledge we had.

Q. You did not notice the *Virginian* then from the time you passed her at Pulley Point, or when you passed her, again until you looked back when you were about abeam of the *Strathalbyn*?

A. That was the next time I noticed her.

Q. And it seemed to you then that her lights through her portholes bore a little different from what they did when you passed her?

A. It seemed from her lights along the side of the vessel that she had turned a trifle to the left.

Q. Now, isn't it a fact that if you had changed your course after passing the *Virginian* and the *Virginian* had kept her same course, the bearing of those lights would have been a little different?

A. It is a fact if we had changed our course that the *Virginian* would have shown off the stern in that direction.

Q. But you say her course was changed a little different when you looked back this time than when you passed her? A. Yes, sir.

Q. And if you were bearing away from her all the time, on a converging course, that would make the same apparent change, wouldn't it?

A. It would.

Q. Do you know whether or not the *Virginian* changed her course or whether you were converging from her? A. I think,—(interrupted)

Q. But do you know?

A. We could not have changed our course.

Q. You were not navigating the Flyer?

MR. HAYDEN: I want the witness to be allowed to complete his answers to the questions.

(Question read) You can answer that and explain as fully as you wish?

A. I do not think we had changed our course, for if we had we would have drawn away from the Strathalbyn, but as we continued towards the Strathalbyn and she towards us, I naturally presumed it was the other boat which had changed her position.

Q. That is what you deduct it from? A. Yes, sir.

Q. Do you know what course the Strathalbyn was on? A. On a course towards Seattle.

Q. And naturally you were approaching her bound for Tacoma? A. Yes.

Q. You don't know whether the Strathalbyn changed her course or not before you passed her?

A. I do not, definitely. She could not have changed her course to any extent. She might have varied a point or two either way as boats will.

Q. Why couldn't she have changed her course to any extent?

A. Because she would have crossed over or bore further away from us.

Q. And she did not bear any further away from you than when you first saw her out there?

A. Apparently not.

Q. And from that you deduct she did not change her course and that you did not change your course?

A. Yes, sir.

Q. That is how you make it out? A. Yes.

Q. And the Virginian's lights bearing a little different, you deduct that she must have exchanged her course? A. Yes.

Q. And that is what you base your statements upon, that the Virginian's bow turned a trifle to port?

A. Yes.

Q. If your direction was changed any, that deduction is not good, is it?

A. Our direction was not changed.

Q. That you know nothing about; but I say if you

did change your course or if you were pulling away from the Virginian, your deduction is not good?

MR. HAYDEN: I want to object to that. The deductions from the testimony are to be made by the Court.

A. If we had turned considerably toward the shore, your theory would be correct, but also if we had done that we would have run away off from the Strathalbyn instead of passing close to her.

Q. Then it is your theory, is it, that the Flyer after passing the Virginian continued on the same course in the same direction as the Virginian was on, a parallel course? A. That is my impression.

Q. And if she did not continue on a parallel course, would that explain the bearing of the lights from the port-holes?

A. Leaving the Strathalbyn out of the case, yes; that is, if there were just the two boats, the Virginian and the Flyer, and no other lights to guide me in my opinion, then if we had turned to the right, I might have been fooled to that extent.

Q. I cannot see that the Strathalbyn has anything to do with it. I am asking you about the difference in the bearing of those lights that were on the Flyer?

A. If we had turned to the right, I maintain I could not have seen the Virginian at all after passing that distance beyond her.

Q. Why?

A. Because we would have turned around and our stern would have shut off the view of her.

Q. And you think it would, do you, if you had been on a converging course? The Virginian was not standing still, was she?

A. No, but she did not appear to be making the same speed at the time I noticed her that she did when we passed her. I mean that we drew away from her faster than we approached her.

Q. The Flyer turned back when she heard the crash, did she? A. Yes, sir.

Q. How long after the crash was it before the Flyer reached within speaking distance of the Strathalbyn?

A. Approximately two or three minutes. We turned very rapidly; got started back quick.

Q. How was the Strathalbyn lying at the time you arrived along side of her, with reference to the shore?

A. She would be lying with her bow pointed towards the—

Q. The main land? A. Yes.

Q. Lying with her bow towards the main land?

A. On that side, yes.

Q. The upper side of the Point?

A. Yes, toward Des Moines; between Pulley Point and Des Moines somewhere.

Q. And how was the Virginian lying?

A. She would be lying,—the Virginian was lying at right-angles to the Strathalbyn.

Q. And how far distant from her?

A. At the time we arrived, within speaking distance?

Q. Yes. A. About an eighth of a mile.

Q. Away from the Strathalbyn?

A. Yes; they had both backed up.

Q. Was there any movement of the Strathalbyn at the time you arrived along side her; was she still backing or going forward?

A. She appeared to be; I did not notice the water at the propeller, but she appeared to be turning towards Des Moines all the time. I don't know anything about her rate.

Q. You approached on which side? A. Her star-board side.

Q. What lights did you see on her at that time?

A. We got close up to her and then backed up.

Q. I mean on approaching her?

A. I didn't notice any lights particularly when approaching her, until we started to back up.

Q. How far were you away when you started to back up? A. About a ship's length.

Q. And what lights did you see then?

A. A green light and masthead light and side lights; the lights on the deck.

Q. Apparently lanterns?

A. Yes; they appeared to be moving back and forth.

A. In approaching the Strathalbyn prior to the collision, when did you first make out the hull of the vessel, if at all? A. Not until I saw these stern lights.

Q. After you had passed her?

A. As we were opposite her.

Q. You had not made out the loom of the vessel up to that time?

A. No. All I saw until I saw the stern lights were the signal lights.

Q. Could you then see the hull of the vessel?

A. When we got right opposite her, yes.

Q. Was she pretty low in the water?

A. Very low in the water; my impression was, until I saw the stern lights, that it was a tug-boat. That is what I thought all the time until I saw the stern lights, and then that indicated to me and I looked closer and was able to discern the entire vessel.

Q. Now, you went along side the Virginian and then returned to the Strathalbyn?

A. We approached the Strathalbyn and then went to the Virginian, yes.

Q. And then returned to the Strathalbyn?

A. Yes, sir.

Q. And you came along side, on which side, the second time? A. The starboard side.

Q. At that time in which direction was she headed?

A. She had continued to swing around and was headed towards Robinson's Point.

Q. How long did you continue along side of her as she went over towards Robinson's Point?

A. About ten minutes.

Q. And where was the Strathalbyn when you left her; how far from Robinson's Point?

A. I am unable to say definitely. I went inside then.

Q. Before you went inside, what was the position of the two vessels with reference to Robinson's Point; how far from Robinson's Point? A. About a mile.

Q. You think you were still a mile off Robinson's Point when you left them?

A. I am placing my judgment to this question from the distance we were to the shore to the right. I did not notice Robinson's Point definitely at that time.

Q. Where do you think the collision took place?

A. About midway between Robinson's Point and Pulley Point?

Q. In the center of the channel or towards which shore?

A. I would think it took place a little toward the right-hand shore.

Q. That would be how far from Robinson's Point?

A. About two miles.

Q. And you continued along side of the Strathalbyn for about ten minutes, and you think she only covered a mile during that time?

A. I doubt if she covered more than that. We were running very slowly, and we were running into the wind, too.

Q. In which direction was the wind that night?

A. The wind was blowing off the shore line; it was north of Robinson's Point.

Q. Was that towards Pulley Point?

A. Towards a point between Pulley Point and Des Moines, or really a little more towards Pulley Point.

Q. You think in a general direction from Robinson's Point inside of Pulley Point or south of Pulley Point?

A. The wind was blowing in a direction similar to, from Point Robinson to a point north of Pulley Point.

MR. HAYDEN: North or South?

A. South, yes.

(BY MR. BOGLE.)

Q. You think after the collision the Strathalbyn in going over to Robinson's Point was going directly into the wind?

A. Not directly, but in a general course towards the wind.

Q. And you think that would impede her progress?

A. Well, that would explain as to only covering a mile in ten minutes.

Q. That would keep her back? A. Yes.

Q. Was there very much wind, to have that effect upon her? A. There was a pretty good wind blowing.

Q. About how many miles would you say?

A. About ten miles an hour.

Q. Now, did you go inside before the Flyer left the Strathalbyn?

A. Well, I went inside and came out again and then went inside again and I was inside at the time we left.

Q. And you think that was about a mile from Robinson's? A. You mean at the time we left her?

Q. Yes, the last time?

A. To the best of my judgment, it would be a mile.

Q. You don't know which way the Flyer maneuvered in going away, in pulling off?

A. I know we pulled off ahead of her, because the boat was at our starboard.

Q. And crossed her bow in coming towards Tacoma? A. Apparently straight ahead of her.

Q. Apparently crossed her bow between the Strathalbyn and Robinson's Point?

A. That would depend which way she went. We were both headed towards Robinson's Point.

Q. And you pulled ahead?

A. Yes, toward Robinson's Point?

Q. And went on towards Tacoma? A. Yes, sir.

Q. What did the Master of the Flyer say when the lookout reported the vessel on the port bow?

A. He said nothing.

Q. That is the way the report was made? A. Yes.

Q. Did he acknowledge he heard that?

A. By blowing the whistle.

Q. He did not answer it in any way?

A. I heard no answer.

Q. Who was the lookout on the Flyer, do you know?

A. I do not.

RE-DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. The lights that attracted your attention on the Virginian, you say, were the port-hole lights on the side of the cabin; is that right?

A. No, it was the lights which shown from her port-holes.

Q. On which side of the cabin?

A. On the side of the hold, I believe. I have never seen the Virginian in daylight; I don't know whether the cabin or the hold.

Q. It was on the side of the ship? A. Yes.

Q. Did you notice whether or not those lights became more broad from the time the Strathalbyn was abeam of the Flyer until the Strathalbyn and the Virginian came into collision?

MR. BOGLE: That is objected to as leading.

A. I did not.

Q. You said the bow of the Virginian seemed to have swung over in towards the shore land on the Des Moines side, did you? A. I did.

MR. BOGLE: I object to that as not the testimony, and further on the ground that it is a cross examination of his own witness.

Q. Did that motion of the Virginian apparently take place while you were looking at her after the Strathalbyn was passing you and when did you look back and see the Virginian?

A. Between the time,—(interruptd)

Q. I will put it this way. As I recall your testimony is that you saw the Virginian after the Strathalbyn was abeam of you; that you had not paid much attention to her after you had passed her until the Strathalbyn was abeam of you? A. Yes.

Q. Now then, after the Strathalbyn was abeam of you and when you had observed the Virginian again, from that time on did this movement of the bow of the Virginian apparently take place then in that interval?

A. When I noticed the relative position in which the Virginian lay, the Strathalbyn had just passed us, and the Virginian still continued to lie with her bow pointed approximately toward Des Moines.

Q. Then as I understand you, did not or did you, see the Virginian swinging towards Des Moines after the Strathalbyn passed you?

MR. BOGLE: That is objected to as cross examination of his own witness and further leading and suggestive, and on the ground that the witness did not testify that he saw any movement or change in the course of the Virginian.

Q. That is the question I am asking, whether or not you saw it swing in toward the Des Moines harbor after the Strathalbyn passed you, or whether that

seemed to be a fixed course as far as your recollection is concerned?

A. The impression on me was that she was changing her course.

Q. That is the impression was conveyed to you that she was changing her course after the Strathalbyn had passed you?

A. Yes. I looked back to speculate as to which side they would pass. My first impression was that it would pass the same as we did, and when I looked back he seemed to be turning, and then I supposed they would pass on the other side.

Q. Now a good many questions have been asked you about these convergent and divergent courses of the Virginian and Flyer, and I want to ask you if it is not your opinion that if when the Flyer passed the Virginian the Virginian was on the course something like this, and the Flyer was on a course something like this (indicating), if when the Flyer drew further ahead and if both vessels had kept that divergent course, the lights on the Virginian would not have naturally become less visible or narrower in line?

A. They would. If anything, we were on a trifle more the same course.

Q. And if you were on more of the same course, then naturally if the Virginian held her course, the lights would still further disappear, if both the vessels held their own courses? A. They would.

Q. But as a matter of fact the lights of the Virginian seemed to be broader when you were further away than they were when you last saw her after passing her; is that correct?

MR. BOGLE: That is objected to as leading and suggestive and a cross examination of his own witness and the witness answered the question the other way, and counsel now attempting to have him testify differently.

Q. Well, tell what the fact is with regard to whether or not those lights got broader or not?

A. The fact is when I looked back there, the lights were brighter than I expected to see them.

Q. I want to ask you if during the time the Strath-

albyn was approaching you and before she got up to the Flyer, her red light ever, to your knowledge, disappeared?

A. It disappeared from my view immediately after they passed us.

Q. But I mean up to the time she passed you, from the time you saw her first, did the red light on the Strathalbyn ever disappear? A. It did not.

Q. Counsel has asked you if you have talked this matter over with me; I want to ask you whether or not I ever suggested to you any change in your testimony in the slightest particular whatever? A. You did not.

MR. BOGLE: There is no such suggestion as that.

Q. Are you telling about it the same story you told me the first time when we talked together about the matter?

A. In substance it is the same, as near as I gave you the first communication.

MR. HAYDEN: I will allow you, Mr. Bogle, to see the written report, if you want to.

MR. BOGLE: Go ahead and examine your witness.

RE-CROSS EXAMINATION.

(BY MR. BOGLE.)

Q. You did not notice the range light and the masthead light on the Virginian at all, did you?

A. I noticed no lights except the masthead light and two side lights.

Q. I am talking about the Virginian?

A. Oh, no, I did not.

Q. When you passed the Virginian you saw these lights coming out of her port holes? A. Yes.

Q. How many? A. A row of lights.

Q. How many was it, eight or ten, or six or eight?

A. I would say at least eight or ten; they may not have all been port hole lights, but they were swung along the vessel.

Q. As you passed those lights were shining bright, directly out of the windows when you were abeam?

A. Yes.

Q. Did you notice those lights again up to the time you passed the Strathalbyn?

A. Not until after we passed the Strathalbyn?

Q. And how did they appear when you passed the Strathalbyn and looked back?

A. Well, they did not appear as bright as when we were abeam, but they were sufficiently distinct.

Q. Were they all in a row so that you could distinguish the different port holes from which they were shining? A. No, it appeared more of a haze of light.

Q. As though they were somewhat in line?

A. Well, they appeared sufficiently plain to indicate to me the direction in which the ship lay.

Q. Tell us how they indicated to you the direction in which the ship lay?

A. By the distance between the lights.

Q. That is between the individual lights or between the first and last? A. Between the first and last.

Q. What was the apparent distance between the first and last light when you looked back?

A. I gave an idea on the chart what direction I considered the vessel lay.

Q. Why did you consider it was lying in the particular direction towards Des Moines?

A. The fact that I could see the side lights; that indicated that she lay in that direction.

Q. But you could see her port lights?

A. Yes, if you want to call them.

Q. These port lights shining out of the port hole then? A. Yes.

Q. Now, as Mr. Hayden says, if the Virginian was along this course and the Flyer off here (indicating) in this converging course when you passed her lights were shining full? A. Yes.

Q. And as you drew up and looked back they would not be as broad as when you first passed her?

A. Not quite.

Q. How could you tell from looking back here the direction the Virginian was going, from this land?

A. From the fact that I could see them. If she was going the direction we were, or as she was originally, I would not expect to see them.

Q. Could you see each light distinctly, or a blur of lights? A. More or less of a blur.

Q. If the Flyer was on this converging course and

the *Virginian* on this course, wouldn't you be able to see that blur when you were at a point ahead of her here (indicating) and she was off back of you?

A. Our distances were so near parallel, I think not.

Q. And if you were on this converging course,— (interrupted)

A. We were not on divergent courses to any extent, but on the same course practically.

Q. If the Master of the *Flyer* testifies that he was on this diverging course, would that change your opinion any? A. It would not.

MR. HAYDEN: I object to that. The Master of the *Flyer* has not so testified.

A. I would consider he knew where he was going, but I would consider my opinion that we were going on the same general course.

Q. And you base your conclusion that the *Virginian* was changing her course, merely on the presumption that at the time you passed, you were on practically the same courses, and when you looked back, you were not?

A. When I looked back, she was not on the course I expected her to be.

Q. She was not on a parallel course with you; isn't that what you say; in other words, that you were further to the westward?

A. She was very near directly astern of us, but with her bow turned more to the left.

Q. And that is all you could tell, isn't it?

A. That is, yes.

Q. You don't know whether there was any movement or change in the *Virginian* after you passed her, do you? A. You mean in her progress?

Q. Any change in her course after you passed her?

A. I know she was pointed in a direction different from what she should have been if she had continued the same as she was.

Q. I understand that is what you want to get in here, but I don't think that is according to the facts.

MR. HAYDEN: I object to that.

A. I know her bow was turned in a different direction from what I expected to see it.

Q. You expected to see it in the same general course you were taking? A. Yes, sir, I did.

Q. And when you looked back it was not in the same general course you were on? A. It was not.

Q. But was more to your left?

A. It was pointed more to the left. The boat was not more to the left.

Q. And that was absolutely all you noticed, isn't it?

A. Yes, the bow was pointed more to the left.

Q. In other words, you were pointed inside Robinson, weren't you?

A. I don't know where we were pointed at that time. I was watching the boats.

Q. I think you testified you were pointed more that way?

A. We were at that time, but I don't know about it when we passed them. I was watching the boats then. If we changed our course, we must have been bearing away in here some place (indicating).

Q. The last time you noticed the Flyer's course she was headed inside Robinson?

A. At the time we first signalled to the Strathalbyn, we were.

Q. The Virginian was headed more off Robinson than you were at that time?

A. She was apparently headed in the same direction we were.

Q. When you looked back at the time of passing the Strathalbyn?

A. Oh, no; you were speaking of the time we were pointed inside Robinson.

Q. But you didn't look back at that time?

A. You asked what direction she was when we were pointed inside Robinson.

Q. But you didn't look back and don't know about that? A. When was that?

Q. After you had passed the Virginian and were pointed inside Robinson?

A. That is the time I noticed her; when we were abreast. She was going in apparently the same direction we were, and we had passed her very slowly and ran along parallel for a little way.

Q. And that was a little south of Pulley, you think?

A. I think so.

Q. But you didn't notice her after that?

A. I didn't notice her after we had drawn a little ahead and had signalled to the Strathalbyn.

Q. And the next time you noticed her she was bearing a little more to the left than you?

A. She was not bearing; she was headed that way; I could notice very little movement. It occurred to me that she had slowed down a little.

Q. And she was headed a little more to the left than you were?

A. Her bow was pointed a little more to the left.

(Witness excused.)

(Signature waived.)

MR. HARRY SWANSON, a witness called and sworn in behalf of the Libelant, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. What is your full name? A. Harry Swanson.

Q. Where do you live? A. Burton, Washington.

Q. How old are you? A. Nineteen.

Q. Have you ever had anything to do with knocking around on the water, in launches and boats?

A. I have, for the last seven years.

Q. In what vicinity and what neighborhood?

A. All the way from Hoods Canal down to Olympia and down that way, and I have had several long trips in larger boats.

Q. Were you on the Steamer Flyer coming from Seattle at the time the Strathalbyn and Virginian collided? A. Yes, sir.

Q. What were you doing on the Flyer when she got somewhere in the vicinity of Pulley Point?

A. I was coming outside then. I noticed we had passed the Virginian and that attracted my attention and I came outside.

Q. You had been where? A. In the main cabin.

Q. And you came out on what part of the Flyer?

A. Along midships and towards the bow.

Q. When you came out, had you overtaken the Virginian? A. We had just passed her a little way.

Q. Did you notice where Pulley Point was at that time?

A. I did not take very strict notice. Just a little west of us; just about opposite us.

Q. Were you out on the deck before the Flyer whistled to the Strathalbyn? A. Yes, sir.

Q. Did you notice the Strathalbyn prior to the time the Flyer whistled?

A. I noticed her quite awhile before that, yes.

Q. And what did you notice?

A. I noticed the red port light and the white range light or bow light; that attracted my attention mostly; that is how I managed to pick her out,—by those two lights.

Q. What kind of a light was this range light or bow light?

A. It was quite a large white light, pretty well up from the deck.

Q. How far away would you say the Strathalbyn was when you first saw both the white light and the red light?

A. Oh, she must have been a mile and a half any-way.

Q. Did you see any green light on the Strathalbyn?

A. I did, but not as she was coming towards us. I saw it after the collision.

Q. But you did not notice it as she came towards you? A. No.

Q. Did you watch these lights of the Strathalbyn closely or were you busy with other things during the time she was coming up?

A. No, I was watching first one boat and then the other all the time I was out until after the collision; after we had left the collision.

Q. What did you notice about the masthead light or the red light on the Strathalbyn, as to the way it was burning?

A. It seemed to be burning all right to me; so far as my experience showed. It was bright enough to be seen easily a mile and a half or two miles away.

Q. How about its flickering up or down or being steady?

A. It seemed steady to me; it was not noticeable to me that it flickered at all.

Q. Did you hear any whistles from the Flyer to the Strathalbyn?

A. I did not pay any particular attention to that, no.

Q. You don't know whether the Flyer blew?

A. If I remember right I think she did; I know she did now, but I would not say for certain that she did blow.

Q. You mean by that, that you have heard since the accident that she did blow A. Yes.

Q. But at the time you haven't any recollection of having heard it at the time; is that right?

A. That is right.

Q. Did you lose sight of the red light and the mast-head light of the Strathalbyn at any time before the collision?

A. No, sir. I could see them up to the time of the collision. That is the only way I could pick out the Strathalbyn, that is, by these lights.

Q. Did you notice any other lights on the Strathalbyn? A. After she passed us, I noticed the stern light.

Q. Could you see the Strathalbyn up to the time of the collision with the Virginian, that is, to know that they were approaching each other?

A. Oh, yes, I could make out the outline,—just about make out the outline of them.

Q. How was the Virginian lighted up?

A. I did not take such very strict notice of the Virginian, but I know she had several lights on her. She was pretty well lighted up. I did not notice,—I could not say whether she had any range light or any other lights. I got a glance of her through the cabin window and saw lights, but I could not say what lights.

Q. Now, about how far astern of the Flyer were the two vessels when they came together, in your opinion?

A. Oh, I would judge they could not have been more than half or three-quarters of a mile,—along there.

Q. After the collision, what did the Flyer do?

A. She circled around and went back to the wreck.

Q. Which way did she circle. A. To the left.

Q. What vessel did the Flyer first come up to after the collision? A. She came up to the Strathalbyn.

Q. Did you notice any lights on the Strathalbyn then?

A. I noticed a red light and range light and stern light; that was the first time I noticed the green light, when I came back.

Q. You did not notice the red light when you came back?

A. I did not take very strict notice of it, no.

Q. Have you any recollection now of having seen the red light when you came back?

A. I would not say for sure, no.

Q. You do recollect seeing the green light?

A. That was the side towards us and I certainly saw that.

Q. Do you recollect seeing the masthead light?

A. Yes.

Q. Do you recall how those lights were burning?

A. They were burning all right; bright enough to be seen easily.

Q. And how, as to whether or not they were burning steadily or flaring up and down?

A. I don't believe they were flaring up or down. It seemed steady to me, like other lights around the Sound that I have seen.

Q. After you came up to the Strathalbyn, where did you go?

A. I stayed right on the deck. I went up towards the bow in front of the pilot house.

Q. And what did the Flyer do?

A. She circled around, and the Captain got his megaphone and wanted to know if they needed assistance, and they said, no, and he turned around and went back towards Tacoma.

Q. Did you go up to the Virginian?

A. Well, I don't think we did. I think we circled right around and asked the Strathalbyn if she wanted assistance.

Q. Did they ask the Virginian?

A. No, I think the Captain hollered once, to my knowledge.

Q. After the Flyer had come back to the Strathalbyn, did she leave her and come towards Tacoma?

A. Yes.

Q. Did you notice any lights on the Strathalbyn when the Flyer was coming towards Tacoma, from her?

A. I didn't look back after that and I couldn't say how they were. When we left they were burning all right.

CROSS EXAMINATION.

(BY MR. BOGLE.)

Q. Your experience has been on small launches, pleasure launches?

A. Yes, and quite a bit on steamers. I have been out at night on the Sound steamers.

Q. In what capacity? A. Mostly as passenger.

Q. Do you know Mr. Foss, of the Foss Boat-house?

A. I don't know them very well; I have met them.

Q. Did they ever talk to you about this case?

A. Not anything really very much. Mr. Foss, the lawyer, was the first one who got me as a witness. He called me to his office and told me to be on hand if they needed me; that is all.

Q. Now you were inside the Flyer up to the time she passed the Virginian? A. Yes, sir.

Q. And where do you think she passed the Virginian?

A. It was about off Pulley Point as far as I could make out. It was dark and could hardly see the Point, but I came outside just about the time she passed Pulley Point, and we were a little ways past the Virginian.

Q. Was the Virginian up to the Point then?

A. Just about opposite the Point.

Q. And you were past the Point?

A. Yes, sir, we were past the Point.

Q. How far off the Virginian did you pass?

A. How do you mean?

Q. Which way did you pass her?

A. On the outside of her towards Vashon Island.

Q. You came up astern of her and passed off her starboard? A. Yes.

Q. How far were you off her starboard when you passed?

A. It is hard to judge; I don't know exactly, but as far as I could make out, she must have been about one-third of a mile.

Q. You were outside of her one-third of a mile?

A. Yes, sir.

Q. Did you notice the Virginian after you passed her?

A. I took a glance at her after we passed, or as we passed, and noticed that we were passing a vessel, but after I came out I glanced back and saw she was keeping up with us pretty well.

Q. She was headed in the same direction you were then? A. Yes, just about the same course.

Q. She was headed south? A. Yes.

Q. And were you headed more to the westward?

A. We were headed, yes, about Robinson's Point; I would not say whether to the west, but it seemed like almost the same course as she was, except as we had passed outside we were still off that way.

Q. You were still going off that way a little?

A. Yes, being outside of her yet.

Q. You heard the Flyer whistle to the Virginian, didn't you? A. I did not take particular notice, no.

Q. When did you first see the lights of the Strathalbyn?

A. After I had come outside I happened to glance up ahead and picked out these two lights; they were the only lights I saw on board at the time.

Q. You passed on which side, the Flyer?

A. The port side.

Q. And walked forward?

A. A little way past midships.

Q. And how long after you passed the Virginian before you made out the lights on the Strathalbyn?

A. Well, about a minute or a minute and a half, maybe. We stepped outside and it was almost as soon as I got outside that I noticed these lights ahead.

Q. Then you would say it was about three minutes or so after you passed the Virginian that you saw the Strathalbyn's lights?

A. Well, maybe about that; I don't believe it was that long.

Q. What lights did you see on the Strathalbyn?

A. The red port light and the head-light, range light as I call it.

Q. Did you see more than one white light on her?

A. That is all at that time.

Q. How far away was the Strathalbyn at that time?

A. She must have been about a mile or so,—a mile and a half, along there.

Q. Did you afterward see any other lights on her?

A. After she passed us I saw the stern lights.

Q. But prior to the time she passed you?

A. No, I did not notice any other lights except a couple of small port lights.

Q. Did you see her green light?

A. No, I didn't see it at all.

Q. Can you tell the direction she was going?

A. I could tell she was going on almost a course parallel to ours, only headed north.

Q. And in that position could you see her green light?

A. Hardly. She was quite a way in towards the shore from us, so that it would obstruct the view of the green light.

Q. And you passed her how far off?

A. About a half a mile, or not quite; between a quarter and a half.

Q. From the time you first picked her up until you passed her, you saw her red light all the time?

A. Yes.

Q. And you could see her red light as you passed her?

A. Yes.

Q. Was that a bright light?

A. Yes, bright enough to be seen.

Q. In your experience would you say it was an oil or an electric light?

A. Well, it would be hard to tell from my experience. I thought in all of those boats it would be an electric light, because that is what they burned, but I couldn't tell.

Q. Well, from the brilliancy,—the electric lights are more brilliant?

A. Well, sometimes they are, and it would depend on the size of the globe. In that kind of a light there is not much difference, from my experience. I had oil first on my boat and then electric light.

Q. But in that particular boat could you tell whether it was oil or electric light?

A. No, sir, I could not.

Q. When did the red light shut out?

A. I could see it almost up to the time of the wreck. That was about the only way I had of making her out; those two lights and the stern light.

Q. That is the masthead light, the stern light and red light? A. Yes.

Q. And you could see that up to almost the time of the wreck? A. Yes, sir.

Q. How long after you had passed the Strathalbyn was it before the two vessels collided?

A. Well, I should judge it would be perhaps two minutes or so, along there.

Q. After you passed the Strathalbyn?

A. After we passed the Strathalbyn.

Q. Did you hear any whistles blown by either the Strathalbyn or Virginian after you passed the Strathalbyn?

A. Not until a couple of minutes before the wreck. It was not that long,—when I heard three whistles and the Flyer answered; and that was the only whistles I heard.

Q. The Flyer answered then? A. Yes.

Q. What did she blow? A. Three whistles.

Q. You did not hear any other whistles, only the three? A. No.

Q. How long was that before the wreck?

A. About a couple of minutes, I guess.

Q. Then it must have been more than two minutes after the Strathalbyn passed and before the wreck,—I thought you so testified?

A. Oh, it was a little longer than that, I guess; two or three minutes.

Q. These three whistles were shortly after the Strathalbyn passed the Flyer?

A. Yes; the time I heard the three whistles it seemed like I hadn't hardly had it out of my mouth before they bumped.

Q. Then it would not have been two minutes?

A. No, it was a short time.

Q. Do you think it was half a minute?

A. Well, it might have been about that; it was along there.

Q. The two vessels at that time were half or three-quarters of a mile astern of the Flyer, you say?

A. About half a mile, I would say, about that.

Q. And in what direction were they at the time they collided; how did they bear from the Flyer?

A. I would judge at an angle,—it seemed we were out so far, I would not say just what angle, we being on the outside of them so far; it was a pretty large angle.

Q. She was off your quarter, wasn't she.

A. Along there.

Q. How many points would you say she was off, or the two vessels were off the course of the Flyer, extended?

A. Oh, at an angle of about 35 degrees, something like that.

Q. Then as I understand, the two vessels were well off to your left? A. Yes, sir.

Q. And at an angle of about 35 degrees off your port quarter? A. Yes, sir.

Q. Or 35 degrees off the line of your course extended? A. Yes.

Q. Where do you think they collided with reference to the two points of Pulley and Robinson?

A. I would judge a little less than half way between Pulley and Robinson, towards Pulley.

Q. A little nearer Pulley?

A. A little nearer Pulley, the way I looked over towards Des Moines at that time.

Q. And with reference to the channel between Pulley and Robinson?

A. Across there from Maury Island to the mainland, it must be about three miles.

Q. But where were the two vessels at the time they collided, with reference to that channel?

A. Oh, they were pretty well in line between Pulley and Robinson's, I would judge.

Q. Pretty well on a line between them and a little closer to Pulley? A. Yes, sir, they were.

Q. And you at that time were off to the westward of a line between Pulley and Robinson? A. Yes, sir.

Q. You did not notice any range light aboard the Strathalbyn?

A. That is what I call it; I guess it is a headlight on the larger steamers.

Q. You only notice one white light aloft?

A. Yes, one white light.

Q. After the collision when you returned to the vessels, how was the Strathalbyn lying?

A. I could not say exactly in what position she was; I did not notice the shore much, but from the way we were turned around, I would judge she was going in towards the shore.

Q. Where was the Virginian lying at that time?

A. She was lying a little off to the west of her.

Q. And in what direction was she pointed?

A. The Virginian was pretty well in towards the shore, headed about for the Strathalbyn.

Q. In the same general way as the Strathalbyn?

A. Just about.

Q. She was headed in to shore?

A. She was kind of swinging in that way; at the time we got back, they had swung off, but that was about the relative positions when I first noticed them, after we came back.

Q. Was the Virginian moving then?

A. No, lying there drifting.

Q. Do you know how the tide was?

A. I don't remember exactly. I know it was about half way in when we came to Tacoma.

Q. How far were the two vessels apart when you came back to them after the collision?

A. They were within perhaps 700 feet apart.

Q. And the Virginian was further out in the channel than the Strathalbyn? A. Yes, sir.

Q. And were they both on parallel courses at that time when you returned to them?

A. They were lying in their general courses, but their bows were not headed right.

Q. But were they headed in the same direction?

A. No, not at that time.

Q. The Strathalbyn was headed in towards shore?

A. Yes.

Q. Did she have any movement?

A. No, not at that time; she was lying dead.

Q. And the Virginian was headed in what direction? A. A little towards the shore, too.

Q. As much as the Strathalbyn?

A. Well, not as much.

Q. At what angle towards each other; was it something like this (indicating)?

A. Oh, I would say an angle of about 20 degrees.

Q. That is the angle between the two vessels?

A. Yes; I don't know exactly what it would be.

Q. When you returned to the Strathalbyn, did she have any movement then; you came back to the Strathalbyn?

A. We first came to the Strathalbyn and circled around and headed back and came around again, and just paused for a moment at the Strathalbyn.

Q. And at that time did the Strathalbyn have any movement?

A. At the time we came back, if I remember right, she had turned around and was heading back towards Tacoma, but I am not certain about that.

Q. She was swung around?

A. That is the way I remember, but I would not say for certain.

RE-DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. Did you when the two vessels were coming together, notice how they were approaching each other on an angle?

A. I could not say exactly. I think they were swinging; the Strathalbyn a little towards shore, but from the position of the lights you could tell she was swung a little.

Q. But I want to get at whether you could tell which side, if any, the Virginian and Strathalbyn were coming together?

A. No, I could not tell at all.

(BY MR. BOGLE.)

Q. Could you get any real information from looking back as to what the two vessels were doing at that distance?

A. No, I could not. I could tell they were getting pretty close to each other and along in the same course pretty well, but I could not say exactly what they were doing.

(Witness excused.)

(Signed waived.)

(Filed May 28, 1914.)

DEPOSITIONS OF W. L. MAC QUARRIE ET AL.

Testimony of W. L. MAC QUARRIE, FRANK W. LEACH, F. P. McINTYRE, and ANDREW WAADNE, witnesses on behalf of Libelant, taken at Tacoma, Washington, March 25, 1914, before Raymond J. McMillan, U. S. Commissioner, under the order of the above named Court, and stipulations by proctors of the respective parties, it being particularly stipulated that the testimony of the above named witnesses may be used without objection on account of the said witnesses not reading or signing their testimony, which signing and reading is particularly waived.

The Libelant appearing and being represented by Mr. W. H. Hayden, of Proctors for Libelant,

And the Respondent and Cross Libelant and Claimant appearing and being represented by Mr. Lawrence Bogle, of Proctors.

WHEREUPON, the following proceedings were had and done and testimony taken, to-wit:

W. L. MACQUARRIE, a witness produced on behalf of the Libelant, having been first duly sworn, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. What is your full name? A. W. L. Macquarrie.

Q. How old are you, Mr. Macquarrie?

A. I am thirty-four now.

Q. What is your present business and what was your position on the 12th day of January, 1912, that being the date the Strathalbyn and Virginian were in collision? A. Agent for the American Trading Co.

Q. With your offices where?

A. At that time 1320—let's see, now,—that was in 1912.

Q. I think if you just give us generally the building or city.

A. 1322 National Realty Building.

Q. In Tacoma? A. In Tacoma.

Q. What position did you occupy with the American Trading Company? A. Agent.

Q. Did the American Trading Company have anything to do with the steamer Strathalbyn during that trip, 1912?

A. She was under time charter to our Company.

Q. Did they have anything to do with the cargo that was aboard her? A. Furnished the cargo.

Q. When did you first hear that the Strathalbyn and the Virginian had been in collision, about what time?

A. About fifteen—ten or fifteen minutes to nine P. M., the night of March 12th—of January 12, 1912.

Q. Now, what did you do then?

A. The first thing I did was to get hold of Mr. Leach on the telephone, told him of the report, and asked him to accompany me down town.

Q. You went where?

A. Went direct to the office and sent a night letter from there at nine-thirty advising the American Trading Company in San Francisco that it was reported the Virginian was in collision with the other steamer the—

Q. Strathalbyn?

A. Strathalbyn; and that I would wire them further when I got full particulars.

Q. Then, what did you do?

A. Then I went up to the Foss Boat House and asked them to have a launch ready to take me to the steamer. I went down to the launch house, and about

that time the Virginian was coming in. I went over to the Virginian—do you want this in detail?

Q. Go ahead, yes.

A. When she drew close to the wharf I called out to the pilot on the bridge of the Virginian and asked him—

MR. BOGLE: I object to any conversation you had with the pilot; just tell what you did.

MR. HAYDEN: Q. Go ahead and tell what conversation you had with the pilot.

MR. BOGLE: I object to it.

MR. HAYDEN: Just let him put his objection in, and then go ahead and testify.

A. I asked him if it were true—I would not say it was the pilot I called out to on the bridge, but I presumed the pilot was on the bridge—I called out and asked if it was true that there had been a collision with the Strathalbyn, then he spoke and replied, "Yes," that he thought she was in bad shape. I asked him if he thought it was necessary for us to send tug boats out, and he said he did not know but she was in bad shape as far as he could see. So then I went to the Foss Launch House and went out to meet her.

Q. Do you know about what time it was you left the Foss Launch House?

A. It must have been getting close to eleven o'clock at that time.

Q. And where did you first see the Strathalbyn?

A. Oh, we were a little beyond Dash Point before we were satisfied in our own minds that it must be the Strathalbyn. We saw the lights of the steamer somewhere between Brown's Point and Dash Point, in that latitude somewhere.

Q. That is, you were between Brown's Point and Dash Point when you saw the light of the Strathalbyn?

A. Exactly.

Q. Where was the Strathalbyn?

A. We could see her off our port bow about five degrees.

Q. Between what points was the Strathalbyn?

A. She would necessarily have to be between Point Robinson and Dash Point.

Q. What light did you first see on the Strathalbyn?

A. The first light that I saw was a red light.

Q. Well, did you make out that light as being on the Strathalbyn at first? A. No.

Q. Well, go ahead and tell about it?

A. As we drew nearer we distinguished the head light,—masthead light—shortly afterwards we were able to distinguish the contour of the ship, hence knew it was the Strathalbyn.

MR. BOGLE: This was all after the collision, was it, Mr. Macquarrie? A. Yes

MR. BOGLE: I object to it as incompetent and immaterial.

MR. HAYDEN: Q. Were you able to tell—what light did you see on the Strathalbyn? What light were you able to see on the Strathalbyn first—what light was it? A. Red light.

Q. The red light. When you first saw the red light, did you know it was the light on the Strathalbyn?

A. No, I did not. I spoke to the launch man and asked him what light he thought it was, and he said that was Point Robinson light.

MR. BOGLE: I object to any conversation between himself and the launch man as immaterial.

MR. HAYDEN: Q. Is that the light that subsequently turned out to be the Strathalbyn light?

A. Same light.

Q. Did the masthead light and the side light—red light on the Strathalbyn—appear to be burning with a flickering flame that was going up and coming down and going up and coming down and going out, or always burning? Or were they burning with a steady glow?

A. My recollection is they were burning steadily; I did not observe any fluctuations in the light.

Q. Are you able to estimate the distance the Strathalbyn was away from the launch when you first saw her lights?

A. Oh, I should judge from the time we would take to get to her, from the time we saw her, was a matter of four or five miles.

Q. Did you board the Strathalbyn from the launch after you saw the lights? A. Yes, sir.

Q. Who do you remember was with you in the launch that went out to her?

A. Mr. Leach was along with me, and there was the launch man and the engineer, and there was some other third party there. There were three in the launch besides Mr. Leach and myself. They, I presume, were all employes of the Foss Launch Company, I presume they were, I don't know.

Q. Did you remain on the Strathalbyn until she reached Tacoma harbor? A. Yes, sir.

Q. Where did she tie up?

A. At a buoy between the St. Paul Mill and the Oriental Dock.

Q. Did Mr. Leach go aboard the Strathalbyn with you when you got aboard of her?

A. No, sir, nobody went aboard with me until she was tied up to the buoy.

Q. What became of the launch after you went aboard of the Strathalbyn?

A. After I went aboard the Strathalbyn the launch shifted from the port side of the Strathalbyn and took a turn around the stern of the Strathalbyn and stayed in our starboard bow and took a look at the damage, and after I discussed the accident with the captain and the pilot, they decided that they would beach the steamer near the St. Paul Mill wharf, and whistled for the launch to come alongside; and we told Mr. Leach to go to the St. Paul Mill wharf and see that the logs were moved out of the way, if there was anything in the way, and put a lantern at the end of the wharf so the pilot would be able to tell where to beach the steamer. The launch then went ashore to do that, then it turned around and came back to the steamer, and in the meantime the plans had been changed and it was decided to tie the steamer to the buoy. The launch was called alongside again and told to be prepared to land a line to the buoy. We were still a considerable distance away from the buoy, and we sent the launch back to pick the lantern up, as I remember, and the launch stayed by to take the lines to the buoy.

Q. Did the Strathalbyn tie up at the buoy?

A. Yes, sir.

Q. Did Mr. Leach go with the launch to the dock and also to the buoy?

A. Yes, he was in the launch all the time till she was tied up, made fast to the buoy.

Q. After the Strathalbyn was in the Tacoma harbor, did your Company do anything in connection with the unloading of her cargo. A. Yes, sir.

Q. Did you make any arrangement for the unloading of the cargo with the owners of the ship.

A. Yes, sir.

Q. What was that arrangement?

A. The morning after the accident we all met in Dodwell & Company's office, and the Captain gave me written authority to proceed with the discharging of the forward deck load.

Q. Did you proceed to do that?

A. We did immediately.

Q. Were you paid for so doing it, in accordance with your arrangement? A. We were.

Q. What was your arrangement?

A. The arrangement for discharging the deck load was actual cost plus ten per cent.

Q. I call your attention to Libellant's Identification R-71, and the vouchers attached thereto, being a statement of an account for \$1007.36, and ask you just briefly what that was to cover—what that actually did cover?

A. Well, the statement itself is explanatory, it is the actual cost plus ten per cent account discharging forward deck cargo on the S. S. Strathalbyn.

Q. Were you paid \$1007.36 in settlement of that account?

A. We were; this here proves it there (indicating on Exhibit).

Q. The vouchers attached to it are the expense vouchers that were incurred?

A. Yes, sir, are the expense vouchers.

Q. The ten per cent of \$91.57 was for what?

A. That is to cover our work in connection with it, the furnishing of the men, the use of stevedore tools, the clerical work, involving the advancing of monies, etc.

Q. What have you to say as to whether or not that is a reasonable bill for the work that was done?

A. Why, it is very reasonable for the work that was done.

Q. Now, I call your attention to Libellant's Identification R-70, being a bill for \$102.69 for disbursements to the American Trading Company for launch hire, lanterns, oil, tallymen, etc., and ask you if you incurred that expense?

A. Yes, sir, those are expenses that were incurred by us.

Q. In connection with the Strathalbyn?

A. In connection with the accident,—as the result of the accident. That is to say, we paid these bills. Some of them you will notice were incurred by the surveyor and the Captain, and items—the list shows exactly what each bill was for and they were properly O. K.'d by the Captain and paid by us.

Q. The vouchers are attached?

A. Yes, sir, the vouchers are attached.

Q. Were you paid \$102.69? A. Yes, sir.

Q. You were reimbursed that amount?

A. We were. We did not charge any commission. There was no 2½ per cent commission; disbursed that at actual cost.

Q. You were paid these respective amounts by Dodwell & Company.

A. Dodwell & Company, yes, sir.

CROSS EXAMINATION.

(BY MR. BOGLE.)

Q. Your arrangement for doing this work was made with the Captain of the vessel? A. Yes, sir.

Q. As far as the longshoring work was concerned, it was merely for removing the forward deck cargo?

A. Yes, sir.

Q. Who is Mr. Leach?

A. Mr. Leach is super-cargo for the American Trading Company, working under my direction.

Q. He was super-cargo on the Strathalbyn?

A. Yes, sir.

Q. He was not aboard at the time of the collision?

A. No, sir.

Q. What do you mean by super-cargo?

A. He has the—all the orders of the different kinds

of cargo that are going on the boat, and he has to see that all are set in proper place and proper spaceage is given to the vessel; keeps a plan of the load and keeps a plan of the direction—looks after all the things in connection with the handling of the cargo.

Q. He is sort of a superintendent?

A. Super-cargo is an official term given that class of work.

Q. What does he do with the loading plans, etc., are they turned over to you?

A. Turned over to the office.

Q. Who is Bernard Brereton?

A. Bernard Brereton, he is a lumber inspector.

Q. Employed by you for what purpose?

A. On the Strathalbyn, he was employed to inspect the quality of the cargo shipped and pass on the grades.

Q. Was that before she sailed, before the collision, or after the collision?

A. Prior to the collision. After the collision I believe he was employed by Dodwell & Company as—no, I am mistaken I guess. No, he was employed by us prior to the collision inspecting the entire cargo shipped.

Q. This bill, Libellant's Identification R-70, Bernard Brereton, services \$7.50, is not for inspecting the lumber?

A. That was after the collision; that was after tallying the lumber off the deck load. The Captain gave us authority to employ men on his behalf to take it off, and he happened to be one of the employes employed to take it off.

MR. BOGLE: I think as long as we have this matter up for adjustment between the parties that I will not take up the record. That I will just make a general objection, and if I want to make any objection to any of these matters later, I can do it.

Q. You are still agent for the American Trading Company? A. Yes, sir.

Q. The American Trading Company is interested in this suit as owners of the cargo, are they not?

A. Well, the head office of the company is in San

Francisco, but to what extent they are interested I don't know. They carry insurance.

Q. They were the owners of the cargo. Any damage to the cargo they would be interested in, unless they were insured.

A. They are insured, and of course these particulars are all in the hands of San Francisco, and I am not versed in that at all. They attend to all the insurance. I understand that the cargo is insured by blanket insurance, even before it is put aboard the vessel. They carry insurance all the time. That is my understanding.

Q. All you know is they were the owners of the cargo and that the cargo was damaged to some extent?

A. They were the owners of the cargo prior to its being put aboard the steamer, yes, sir.

Q. Does the ownership of the cargo pass from your Company when put aboard the ship?

A. I cannot tell you that, what their relations are in relation to the bills of lading and other documents.

Q. Who first told you about this collision? Where did you get your information?

A. Somebody called me up on the telephone shortly after the Seattle boat arrived—at the same time the Seattle boat arrived—who it was I cannot say, I have forgotten.

Q. You don't remember who called you up and told you?

A. I am inclined to believe it was a reporter for one of the newspapers.

Q. Do you remember what time you left Tacoma on this night to go out to meet the Strathalbyn; what time it was the launch left here?

A. I did not look at the time, but it must have been in the vicinity of eleven o'clock.

Q. How long with reference to the time the Virginian arrived at Tacoma after the collision?

A. She must have tied up around two or two-thirty.

Q. No, I say how long after the Virginian arrived before you left in the launch?

A. Oh, why, we left right away.

Q. Do you know what speed this launch was making?

A. That launch would probably run along nine or ten knots an hour.

Q. That is what you would estimate it to be?

A. Oh, roughly, yes.

Q. You had passed Brown's Point before you picked up any steamer ahead of you, hadn't you?

A. I don't remember of seeing any other steamer prior to that time.

Q. Had you reached Dash Point when you picked up this red light which you say afterwards turned out to be a red light on the Strathalbyn?

A. We picked that up prior to reaching the latitude of Dash Point.

Q. That was before you reached Dash Point?

A. That we distinguished the red light, yes.

Q. How close were you; were you to Dash Point? How far south of Dash Point at the time you picked up this red light?

A. My recollection is that we were practically midway between Brown's and Dash Point, right close to the shore. We were really skirting the coast between Brown's Point and Dash Point.

Q. About how far out?

A. Oh, quarter of a mile, possibly; it is difficult for me to tell after night like that.

Q. Where were you personally standing on this launch?

A. When I distinguished the light I was standing forward,—forward of the house.

Q. On the deck of the launch?

A. On the deck of the launch, forward of the house.

Q. You were out where your view was unobstructed,—you were not looking through any glass windows? A. Exactly, I was outside.

Q. You were out for the express purpose of finding the Strathalbyn? A. If possible.

Q. Keeping as sharp a lookout as you could?

A. Yes, sir.

Q. And where was the Strathalbyn, approximately, at the time you first picked up this red light?

A. She was off our port bow five degrees, I should say.

Q. Where were you, or rather, where was she located with reference to Robinson's Point?

A. I could not say as to that; she seemed to bear a position between Robinson's and Dash Point, the way we caught her light first.

Q. Was she in line between the launch and Robinson Point? A. What is that?

Q. When you first picked up this light, was she in line between your launch and Robinson's Point?

A. Approximately, except that she was a little to our port,—off our port bow.

Q. Robinson Point was more straight ahead of you? A. Exactly.

Q. How did this red light appear, was it a bright light? A. It was very bright.

Q. Very bright. How far do you judge you were from the Strathalbyn at that time?

A. Oh, roughly, four or five miles.

Q. She was, do you think, within half a mile of Robinson's Point?

A. I could not say as to that.

Q. Could you see the Robinson's Point light very plain, too? Did you notice that?

A. We saw this red light first. We were in doubt whether it was Robinson's Point or steamer's light, and shortly after we distinguished the Robinson lights.

Q. You saw the steamer's light before you saw the Robinson's Point light?

A. We did; in fact, we thought at first it was Robinson's light.

Q. You afterwards ascertained it was not Robinson's Point light? A. Oh, certainly.

Q. You picked up this steamer's light before you picked up Robinson's Point light?

A. Yes, the light we observed first.

Q. The steamer light? A. Yes, the steamer light.

Q. Before you saw Robinson's Point light?

A. Yes, sir.

Q. What light is there on Robinson's Point?

A. Red light, also.

Q. Steady light? A. Flashing light.

Q. That is a red flash?

A. That is my understanding of it.

Q. Do you remember on this night when you saw it whether it was steady or flashing light?

A. Didn't pay particular attention to the light, because we came to the conclusion this was the Strathalbyn, and our minds were centered altogether on her.

Q. Where did this Robinson's Point light appear with reference to the red light on the Strathalbyn?

A. I did not observe that closely at all.

Q. Well, was it further to the north or was it almost on the same line. A. It was more ahead of us.

Q. Did you notice both of the lights at the same time? A. No.

Q. Now, how long did it take you after you picked up the red light to reach the Strathalbyn, if you have any recollection of that time now?

A. Oh, my recollection would be anywhere from fifteen to twenty minutes.

Q. After you first picked it up?

A. After I had first seen it.

Q. How did you navigate the launch after you first picked up this red light?

A. Why, merely told the launch man to make for the light. She had to alter her course a little bit, of course, because she was not directly ahead of us, she was more on our port bow. We had to alter our course a little to go over to her.

Q. As you approached her, how did your course lie with reference to the course of the Strathalbyn?

A. When we approached her?

Q. As you approached her? Was she headed more down the Sound, parallel?

A. No, she was coming towards Tacoma.

Q. Were your courses parallel, or were you approaching her on her port side?

A. We were approaching her on her port side.

Q. What would you judge was the angle of the courses of the two vessels as you approached the Strathalbyn?

A. You mean, which direction was the launch going

and which direction was the Strathalbyn going?

Q. Yes; you were approaching her on the port side. What would you say was the angle between your course and her course?

A. Oh, from the time we set our course for the Strathalbyn?

Q. After picking up the red light?

A. After picking up the red light she was, I should judge, five or six degrees to our port bow. Consequently, we would have to alter our course that much to join her. She was coming towards us slowly all the time, of course.

Q. In other words, what I am trying to get at is this: Was she over towards Maury Island—is it?

MR. HAYDEN: Yes, I think Robinson Point is on Maury Island.

A. Yes, she was over on that side.

Q. She was following along that course and headed towards Brown's Point?

A. She was headed towards Tacoma as near as I could see; of course, you could not tell just what course she was taking.

Q. Her nose was towards Tacoma; that would be to pass off Brown's Point?

A. Naturally she would have to, unless for some reason she was coming over to hug the other shore.

Q. Afterwards you arrived along side of her, didn't you? A. Yes, sir.

Q. Could you tell at that time which way she was headed?

A. Certainly; well, we could tell she was headed towards Tacoma, but when it comes to the exact course she was laying, I am not enough of a nautical expert to tell which way her course was laid, except she was going in a general direction towards Tacoma harbor.

Q. Were you approaching her on her port bow?

A. Yes, sir.

Q. After you picked up the light, you changed your course and were headed towards her port bow?

A. We were headed towards her port quarter, then came up around the port side.

Q. What other lights did you see as you approached her?

A. Why, I did not pay any attention to lights after I had seen the red light, and I distinguished it was the Strathalbyn.

Q. I thought you said you saw her masthead light?

A. Yes, I did, that is how we distinguished it was the steamer, when we saw both masthead and starboard lights.

Q. When did you see the masthead light?

A. It was shortly after we saw the red light. It was up higher, and probably we would have seen it right away if we had looked high enough.

Q. That was before you had changed your course?

A. Yes, sir. We altered our course immediately; we decided it was the Strathalbyn.

Q. Did you stay out on the forward deck of the launch then? A. Yes, sir.

Q. Up to the time you arrived? A. I did.

Q. Paid no further attention to the light? A. No.

Q. Did you see her starboard light at all when you were approaching her? A. No.

Q. From the position you approached her, could you have seen the starboard light if it had been burning?

A. I do not believe we could, the way my recollection determines that course we were taking.

Q. You were out there where you could have seen it, weren't you? You were out on the launch's forward deck?

A. If we had been approaching her at such an angle, it was visible, yes.

Q. But you did not see it?

A. I have no recollection of seeing it.

Q. If it had been burning, do you think you would have seen it? In other words, were you approaching at such an angle that you could have seen it if it had been burning?

A. My recollection is we were approaching it from such an angle it would have been impossible to see it.

Q. How far was the Strathalbyn south of Robinson's Point when you arrived along side of her?

A. I am not enough familiar with those distances to tell you that.

Q. I understood you to say you paid no particular attention to the lights after you picked them up and changed your course for the Strathalbyn?

A. That is correct.

Q. Did you see any other boats in that vicinity at the time you rounded Robinson Point until you were along side the Strathalbyn?

A. Did you see any other boats?

Q. Yes, did you notice any other boats?

A. There was nothing remaining distinct in my memory that would make me think of any other boats. No doubt at that time of night there must have been boats coming back and forth.

Q. Did you notice the Indianapolis pass the Strathalbyn as you were approaching the Strathalbyn?

A. No. You see we met her at such a time at night that the Seattle boats would not be running any more. The last boat gets into Tacoma about eleven o'clock; there are none leaves for Seattle, so we could not have seen any of those.

Q. You were basing it somewhere between eleven and eleven-thirty that you reached the Strathalbyn?

A. It would be later than that.

Q. How far did you say that she was south of Robinson Point when you arrived along side?

A. Well, I told you I was not familiar enough with the distances out there to tell you on that point.

Q. Did you notice Robinson Point light any time after you first picked up the steamer?

A. No, sir, after we found it was the Strathalbyn we never had any more thought of lights then.

(Witness excused.)

FRANK W. LEACH, a witness produced on behalf of the Libellant, having been first duly sworn, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. What is your full name? A. Frank W. Leach.

Q. You were in the employ of the American Trad-

ing Company in January, 1912, the night that the Strathalbyn and the Virginian came into collision?

A. Yes, sir.

Q. Had you been in their employ for some time prior to that? A. Yes, sir.

Q. Are you still in their employ? A. Yes, sir.

Q. Have been ever since that time? A. Yes, sir.

Q. Did you go to the steamer Strathalbyn on the night of the collision with the Virginian? A. Yes, sir.

Q. How did you go to her? A. In a launch.

Q. Who was with you in the launch?

A. Mr. Macquarrie and two or three launch men.

Q. Do you know about the time you left Tacoma?

A. Oh, sometime between eleven and twelve o'clock, I should say a quarter past eleven, likely.

Q. Do you remember what first attracted your attention to the Strathalbyn as you were going out to meet her? A. The lights.

Q. Do you remember where your launch was positioned when the lights first attracted your attention to her? A. Why, between Brown's and Dash Point.

Q. What lights first attracted your attention?

A. The side light.

Q. What side light?

A. The port light,—the red light.

Q. Whereabouts was that light located with reference to Dash Point and Robinson Point?

A. Well, it was between the two points, perhaps a mile and a half or two miles off of Dash Point.

Q. Did you see any other lights than the red light on the Strathalbyn? A. Saw the masthead light.

Q. Did you observe whether the red lights or masthead light were flickering lights or steady lights?

A. Why, they were steady lights.

Q. How did the launch approach the Strathalbyn after you saw her lights?

A. How do you mean? From which side?

Q. Yes. A. From the port side.

Q. When you saw the red light, did you have any difficulty in distinguishing what light that was when you first saw it?

A. Why, when we first saw it we did not know but

what it was Robinson Point light, but it was only a matter of a minute or two until we decided it was the steamer light.

Q. When you decided it was the steamer light, what did the launch do?

A. We started off towards it.

Q. Did you change the course of the launch?

A. Yes, sir.

Q. Now, then, when you first came up to the Strathalbyn, did you go aboard of her the first time? A. No.

Q. Who did go aboard of her. A. Macquarrie.

Q. You say you approached the Strathalbyn on the port side? A. Yes, sir.

Q. How did you approach her?

A. Why, we rounded the boat and came up over towards the stern, up to a life boat that was hanging over the side, and Mr. Macquarrie got in the life boat.

Q. After Mr. Macquarrie got aboard the Strathalbyn, where did the launch go?

A. Why, we dropped astern and went around astern up there to the bow on the starboard side to see how badly she was damaged.

Q. Then what did you do?

A. Well, we laid off the starboard bow until they hailed us from the bridge and asked us to go in to the St. Paul Dock and the waterway to the east side of the St. Paul Dock, to take away any scows or anything in the way so they could beach the steamer; and to put a man with a lantern on the wharf.

Q. Did you go with the launch to the St. Paul Dock?

A. Yes, sir.

Q. Did you put a man on the dock with a lantern?

A. Yes, sir.

Q. Then, what did you do?

A. Went back to the Strathalbyn?

Q. Did you observe any lights on the Strathalbyn as you were approaching her from the St. Paul Dock?

A. Yes, sir.

Q. What lights did you see?

A. Two side lights and the masthead light.

Q. What side lights—what was the color of the side lights?

A. Green and red and white masthead light.

Q. How did you see the green and red lights with respect to the time of seeing them?

A. I saw them simultaneously.

Q. You saw both of them at the same time?

A. Yes, sir.

Q. When you saw the masthead light and the two side lights, about where was the Strathalbyn?

A. Just this side of Brown's Point.

Q. Did you then go up to her? A. Yes, sir.

Q. Did you go aboard of her the second time?

A. No.

Q. And you saw the masthead light and the red and green lights. Did those lights appear to be flaring up or down or appear to be burning steadily?

A. Burning steadily.

Q. What would you say as to whether or not the lights were bright or dim?

A. Why, they were the usual steamer lights; they were bright lights.

Q. Did you go aboard the steamer after you reached her coming from the St. Paul Dock? A. No.

Q. What did you do?

A. Why, they concluded they would not beach her over at the St. Paul Dock.

Q. Aboard the steamer they concluded that?

A. Yes, sir; and ordered us to go to the buoy and put a lantern on the buoy and prepare to make her fast to the buoy.

Q. Then, what did you do?

A. Why, I got on to the buoy with the lantern and sent the launch over to the steamer to get a line, as her capstan was gone and she could not heave herself into the buoy. We had to get the line with the launch.

Q. You say you got on to the buoy? A. Yes, sir.

Q. How did the steamer appear to be approaching the buoy? A. Why, head on to it.

Q. Did you see any of her lights as she was approaching the buoy. A. Yes, sir.

Q. What lights? A. Both of them.

Q. You speak of both of them, what do you mean?

A. Both side lights.

Q. Did you also see the masthead light then?

A. Yes, sir.

Q. I presume the vessel tied up at the buoy?

A. Yes, sir.

Q. Then what did you do? A. Went aboard of her.

Q. Did you at any time observe from any point forward of the red light whether or not you could see that light outside of the stanchions, and if so state where you were positioned and what you saw?

A. Why, not that night, the next day I did. I stood on the forecastle ahead, possibly ten feet forward of the break of the forecastle and could see the lights on the outside of the stanchions, also see it from inside of the stanchions on the forward deck.

Q. How did it appear with respect to the stanchions where you looked at it from the inside of the forward deck?

A. You could see very little of it from inside the stanchions.

Q. Did you see it inside the stanchions or through the stanchions? A. Inside the stanchions.

MR. BOGLE: I object to that as leading.

MR. HAYDEN: Q. Were you super-cargo while this deck cargo was being loaded. A. Yes, sir.

Q. Do you know the size of the stanchions?

A. Yes, sir.

Q. What was the size? A. 6 by 12.

Q. 6 by 12? A. Yes, sir.

Q. How were they placed along the rail of the ship? Was the narrow side towards the rail or the broad side? A. Broad side.

Q. Did you notice whether or not the stanchions were perfectly perpendicular, or otherwise.

A. Why, they were not.

Q. How were they positioned?

A. They were drawn in at the top.

Q. What was your own idea of the extent to which they were drawn in?

A. Why, you mean relative to the top and bottom of them?

Q. Yes.

A. I should say the top of them was—oh, from a

foot and a half to two feet further towards the midships of the boat than the bottom of them.

CROSS EXAMINATION BY MR. BOGLE.

Q. Mr. Leach, have you talked this matter over with Mr. Hayden and Mr. Macquarrie? A. Yes, sir.

Q. When did you talk it over last? A. Why—

MR. HAYDEN: I just want to object to this testimony as immaterial.

A. Only once, last week sometime—let's see, last Friday I think it was.

Q. You reside in Tacoma, do you. A. Yes, sir.

Q. As super-cargo, Mr. Leach, what are your duties with reference to the loading of the steamer?

A. Everything is in my charge; storage.

Q. Is the loading of the deck load—is the forward deck loading in charge of you? A. Yes, sir.

Q. Manner of the loading of it? A. Yes, sir.

Q. And the amount of cargo going on the forward deck? A. Yes, sir.

Q. Do you know how much cargo went on the forward deck of the Strathalbyn?

A. No, I could not say exactly.

Q. Did you keep any record of it?

A. We keep a record of the amount of deck load, but not of the upper deck.

Q. Did you have a loading plan of the steamer?

A. Yes, sir.

Q. Does that show the amount of deck load?

A. Approximately the amounts only; that is, the loading plans show approximately the amounts only. There are figures for the under deck and on deck separate, but not the two decks separate.

Q. That is, you mean the forward and after decks?

A. The decks are not separate.

Q. Where was this cargo loaded, Mr. Leach?

A. In Tacoma.

Q. What mill? A. That is, the fir cargo?

Q. Where was the deck cargo loaded?

A. Deck cargo loaded principally at North End Mill.

Q. When was that loading completed?

A. On the 11th of—January 11th.

Q. Was that the day before the steamer sailed?

A. Yes, sir.

Q. And as soon as the cargo was loaded did she shift to the buoy? A. Yes, sir.

Q. When did she shift to the buoy, on the 11th?

A. The night of the 11th.

Q. When did she sail? A. The night of the 12th.

Q. Was anything done with reference to the cargo after she finished loading on the night of the 11th, up to the time of sailing on the 12th?

A. Nothing done with the cargo.

Q. Was that cargo all secured and properly lashed before leaving the mill the night of the 11th?

A. No, we lashed afterwards.

Q. When? A. The mate lashed it the next day.

Q. Were you aboard when the cargo was lashed?

A. I was aboard after it was lashed; not at the time they lashed it.

Q. What size timbers went on the forward deck?

A. Why, it was a miscellaneous cargo, principally small lumber. There were a few large timbers down next to the deck.

Q. What was the size of those?

A. Oh, I could not say, they were, I should judge, 16 by 16 and 14 by 14, stuff of that kind.

Q. How long? A. Oh, 50 or 60 ft. long.

Q. How many pieces of that approximate size were there, Mr. Leach? A. Oh, seven or eight, I should say.

Q. What was the next largest size?

A. I don't think there was anything larger than that; I would have to look up the records to tell just what it was. There were some timbers too heavy to handle by hand when we came to discharging them; that is the only recollection I have of it.

Q. Have you any recollection of the sized timbers loaded on the forward deck?

A. I think I could get at it, yes.

Q. I would like to have you produce that?

A. I could not swear as to the number on the deck; might possibly have been some on the after deck, but I distinctly recollect of five or six, because I had an

argument with the surveyor at the time about taking them off.

Q. What surveyor was that?

A. With Capt. Gibbs and Capt. Fowler.

Q. Did they survey the cargo before the steamer left? A. No, this was after the accident.

Q. After the accident? A. Yes, sir.

Q. Was this cargo surveyed prior to the time of the accident? A. No.

Q. Not examined by any marine surveyor?

A. No, sir.

Q. Passed upon by any marine surveyor?

A. Not to my knowledge.

Q. The entire loading was left to you, was it?

A. Myself and the captain.

Q. Were those large timbers loaded down on the deck? A. Yes, right on the deck.

Q. Were they loaded next to the stanchions?

A. No, next to the hatches.

Q. Next to the hatches in towards the—

A. Yes, sir.

Q. What size timbers were laid next to the stanchions?

A. Why, all sizes, miscellaneous lumber, and some of it as small as one inch.

Q. What was the approximate size of most of the lumber loaded next to the stanchions on the forward deck? A. Why, I could not tell; no one could tell.

Q. Mr. Leach, are those stanchions when they are first put in position placed in an upright position, when first placed on the deck? A. No.

Q. They are put inboard when first— A. Always.

Q. How do you get them inboard when you first put them on deck?

A. Why, with your blocking at the bottom. It all depends on the amount of blocking you put behind them.

Q. When the blocking on the deck would be of such length that the cargo would be—that the bottom of the stanchion would be further outboard than the position of the stanchion at the rail? A. Yes, sir.

Q. How much inboard would they be? You had charge of that, didn't you?

A. Oh, yes, but I never measured it. Oh, I should say six inches or more inboard.

Q. You had charge of that, didn't you?

A. Yes, sir.

Q. Those blocks were placed under your direction?

A. Oh, I didn't look after that that close; I have a stevedore foreman who is very good at putting up stanchions; thoroughly understands what I want, and I do not interfere with him.

Q. He had charge of it, really?

A. He had charge of it, yes.

Q. Who is the stevedore? A. Waadne.

Q. As the cargo was loaded on the forward deck, there is a tendency to press those stanchions out?

A. No.

Q. The effect of loading the cargo on the forward deck doesn't have any effect whatever on the stanchions?

A. Not any.

Q. It is loaded just up to and level with the line of the stanchions? A. Yes, sir.

Q. And the cargo is brought—

A. Each tier is set in a little as it comes up.

Q. You are sure that was done on the Strathalbyn?

A. Yes, sir.

Q. After the cargo is all loaded, it is lashed, is it not? A. Yes, sir.

Q. How high was this cargo on the forward deck?

A. About fourteen feet.

Q. Is that as close as you could get to it?

A. Yes, without looking it up; I have a record of it.

Q. I would like for you to produce that record too, Mr. Leach.

A. I haven't it with me, of course. (Witness looks through papers.) Fourteen feet.

MR. HAYDEN: Q. Your record shows fourteen feet? A. Yes, sir.

MR. HAYDEN: There is another record—records of the timber on the forward deck?

A. I cannot get that out of here.

MR. BOGLE: Q. What is this record you read from, Mr. Leach? Is that a copy of your bill of lading?

A. No, that is a report on all steamers, that we keep on our steamers; report of daily transactions.

Q. That is not the original report; where is the original report?

A. I suppose that is destroyed; that is the report that is made up from my report, as I make it up from lead-pencil, and the girl makes several copies for the 'Frisco office and etc., and they are filed away.

MR. BOGLE: I would like to have this identified. (Paper marked "Claimant's Identification, Leach No. 1.")

Q. Referring to Claimant's Identification, Leach 1, state if that record shows the total amount of cargo loaded on deck? A. Yes, sir.

Q. What is that amount? A. 960,095.

Q. Have you any way, Mr. Leach, of telling what proportion of that was loaded on the forward deck?

A. Why, no, except from measurements or from some loading plan that might be in our office; it would be approximate amounts, only.

Q. If you have such a loading plan, I would like for you to produce it now, if you have it; if not, give it to Mr. Hayden later and have him—

A. I haven't it with me.

Q. Referring to this same Identification on the third page, I notice an item here "On after deck." Does that mean 230,000 was loaded on the after deck?

A. Oh, no. That refers to No. 4 hatch,—No. 4 gang. One gang worked on the steamer that day. That is a report of daily transactions here, and one gang worked on the after deck putting on 42,000 on the after deck; that is what that refers to, just that day's work, that is all that is.

Q. The items here, where it says "On deck," means cargo which was really loaded on deck?

A. Yes, it is approximate amounts, which may not include all of it. That was put in, not to show that lumber was loaded on deck, but to show that gang worked on deck.

Q. So that does not show the lumber and the sizes and etc., that were loaded on deck at all?

A. Oh, no; there are no sizes given on it at all.

Q. Could you tell me, Mr. Leach, the approximate proportion of that entire deck—the cargo which was loaded there after taking what proportion was loaded on the forward deck?

A. Oh, I should say there was approximately half a million feet loaded on the forward deck, a little less rather than a little more than that.

Q. There would be more loaded on the forward deck than on the after deck, then?

A. No, about the same, I should think. My recollection of her is that the after deck is longer than the forward deck, and in consequence the distance of it, the height would be more than made up in length.

Q. To the best of your recollection, would it be divided about half and half. A. I think it would.

Q. Now, Mr. Leach, as these stanchions were originally placed, before any cargo was put on the forward deck, how far would the top of the stanchions be inboard of the bottom?

A. They were not placed before the cargo was put on deck. There was cargo put on deck before the stanchions were placed.

Q. How much cargo?

A. Oh, perhaps a foot of cargo.

Q. The cleats at the bottom of those stanchions were placed before any cargo was put on deck?

A. No, it is all done after storing the cargo.

Q. It was done before any cargo was placed against the stanchions?

A. The cargo is—the stanchion is put in afterwards; same on the inside.

Q. You had all the cargo on the deck? A. Yes, sir.

Q. You placed your cleat, then put up the stanchion?

A. No, you stand the stanchion up and place the blocking afterward; get the stanchion lined just the way you want it and then place the blocking and wedge in both sides until secured at the bottom.

Q. Then place the cargo and wedge against it?

A. Yes, sir.

Q. No, when that cargo is first put in position the way you want it—how much cargo did you have on deck?

A. Twenty-five or thirty thousand, likely; I cannot recollect on that steamer just how much we did have.

Q. How high?

A. Probably a foot high, I would not state positively; sometimes it varies.

Q. A foot high? A. Approximately that.

Q. Now, in that position when the stanchion is properly placed, as you have testified, how far would the top of the stanchion be inboard the bottom of the stanchion? A. A foot and a half or two feet.

Q. After the stanchion is properly placed, you proceed to load your cargo up, bringing it in slightly?

A. Yes, sir.

Q. So as to follow the line of the stanchion?

A. Yes, sir.

Q. And after the entire deck cargo is aboard and before it is lashed, would the stanchion be in the same position as it was when first placed? A. Yes, sir.

Q. Then what steps are taken to lash the cargo? How is that done? A. Why, the lashing—

MR. HAYDEN: I just want to put this objection in. I do not object only on the ground that Mr. Leach stated he was not on this ship when the cargo was lashed, and I therefore think he cannot testify exactly how this cargo was lashed. If you want his general testimony as to how they generally lash cargo, from his experience, that is one thing; as applied to this particular ship, that is another thing.

MR. BOGLE: Q. Were you aboard when the cargo was lashed? A. No, sir.

Q. Who had charge of it? A. The mate of the ship.

Q. Were you aboard after the cargo was lashed?

A. I was aboard, I cannot say when; I was aboard sometime during the day of the 12th.

Q. Did you take notice the way the cargo was lashed. A. Oh, yes.

Q. How was it lashed?

A. In the usual manner. I could not tell you exactly how it was lashed, no; I could not tell you how many loops they had, or anything of that kind.

Q. Do they put ropes or chains around the cargo to draw it inboard? A. Wire or chains.

Q. How much does that draw the cargo inboard?

A. Why, practically none; I do not think it would draw it in any.

Q. Was any effort made on this ship, do you know, to draw the top of the stanchions inboard after the cargo was all loaded?

A. No effort made to draw them in, the only effort was made to tighten them up, that is all.

Q. What do you mean by tightening them up?

A. They might put a guy over the stanchion to straighten them up, draw them in. It is customary not to draw them in but to secure them where they are.

Q. That is for the purpose merely to secure them?

A. Merely to secure them, not to draw them in at all.

Q. Do you know whether that was done on this ship?

A. I could not state whether it was done or not; I should know but I do not.

Q. Did you notice particularly the morning of the 12th when you were aboard, the position of those stanchions, whether they were inboard or outboard or upright?

A. No, not at that time; I had no reason for looking; I had seen what there was before previously.

Q. What do you mean by that?

A. I knew they were lined up right; I always looked to see; it is very essential they should be in line.

Q. When did you look to see that they were lined up right? A. When put up.

Q. That is when the loading first started?

A. Yes, sir.

Q. You particularly noticed that?

A. Yes, sir, always noticed.

Q. You would testify they were inboard a foot or a foot and a half when first put up? A. Yes, sir.

Q. You would testify after all the cargo was put aboard, and before it was lashed, the stanchions were in exactly the same position as when put up?

A. Except one or two that they slipped in afterwards, the last ones opposite the hatchway, where they have to leave them out.

Q. The others were all in the same position they were, a foot and a half or two feet inboard? A. Yes, sir.

Q. How far would they be inboard of the main rail around the main deck?

A. The top of the rail is about six inches. Do you mean outside of the rail or inside of the rail? Top of the bulwarks about six inches inside; that would be about the same thing; be a foot and a half, anyway.

Q. You think the top of the stanchion was a foot and a half inboard from the inside of the rail of the ship? A. Yes, sir.

Q. Did you notice particularly whether it was or not? A. No, that is just a matter of judgment on that.

Q. Did you make any particular examination after the cargo was all loaded and lashed to see whether that was true or not? A. Oh, no.

Q. That is merely—what you are testifying to is from recollection?

A. From my knowledge of the way they are put up; I am putting them up constantly.

Q. This particular steamer; you are testifying from your knowledge of how they loaded this particular steamer? A. Yes, from this particular steamer.

Q. Or from your general knowledge? I thought you paid no particular attention to it, Mr. Leach?

A. I did not measure them to see; I know they were in at least that much.

Q. Did you examine them to see?

A. After the cargo was loaded?

Q. Yes. A. Why, certainly not.

Q. When did you make this examination of the line of those stanchions, after the collision, by standing on the forecastle? A. The next morning.

Q. About what time? A. Ten o'clock.

Q. Had any of the forward deck cargo been unloaded at that time? A. No, sir.

Q. Was the cargo lashed just as it was when it left the port of Tacoma, prior to the collision?

A. I think so, I could not state positively; they might have removed some of that, I did not.

Q. Had they started to unload any cargo?

A. No, sir.

Q. Had they started to remove the lashing?

A. They had not started to remove any cargo nor the lashes.

Q. Were any longshoremen aboard at that time?

A. No, sir.

Q. Who was with you when you made this examination?

A. I don't think there was any one with me at the time.

Q. Which side did you sight along the stanchions?

A. On the port side.

Q. Did you make a similar examination along the starboard side? A. No, we could not.

Q. Where were you standing when you made this examination?

A. About ten feet forward of the break of the fore-castle.

Q. How did you make it?

A. By going to the rail and sighting along to the side light.

Q. Did you lean over the rail in order to do that?

A. I leaned over sufficiently to get in line of the ship, yes.

Q. You mean so that you were sighting along the rail?

A. So that I was sighting directly over the lights.

Q. In your position you were virtually forward of that light? A. Yes, sir.

Q. Was that what you were trying to do?

A. Yes, sir.

Q. From that position were the stanchions directly ahead of you, or were some of them inside of you?

A. They were inside of me.

Q. All of the stanchions? A. Yes, sir.

Q. Inside of your line of vision?

A. Yes, sir, the tops of them.

Q. What could you see on the outside of the port light? A. Outside of the port light? In what way?

Q. By sighting along outside of those stanchions, what could you see, what part of the light box?

A. I could not see the whole box.

Q. Was the light in the box at that time? A. No.

Q. You could see the entire box, could you?

A. I could see the entire box except the portion ahead of the blocks in the forward end.

Q. Could you see the after end of the light box?

A. The back of the box, you mean?

Q. Yes. A. Part of it, not the entire part.

Q. Could you see the block at the forward end of the box? A. Yes, sir.

Q. Was that right straight up to where it was fastened on the box? A. Yes, sir.

Q. You could not see the entire after block?

A. No, the forward block shows for part of the after end from that point.

Q. What could you see by sighting inside of the line of the stanchions?

A. You could see a portion of the box.

Q. What portion of the back?

A. I could see the block of the forward end and a little of the after end.

Q. How much of the after end could you see?

A. Oh, not a great deal of it.

Q. What part of the after end?

A. The outside portion.

Q. Where were you standing when you made that observation, Mr. Leach?

A. Why, on the forward deck, forward of the mast part, well forward on the deck and midship of the deck, I should say, on the inside.

Q. About midship?

A. Not midships of the ship, midships of one side, perhaps eight or ten feet of the rail, something like that.

Q. Eight or ten feet inside of the rail, and how far forward of the forward— A. pretty well forward.

Q. Is that as far as the break of the forecastle?

A. No, no.

Q. How far were you from that?

A. I could not say, perhaps a few feet back of that.

Q. Five feet?

A. Yes, I should say ten or fifteen feet, possibly.

Q. Ten or fifteen feet back of the break of the forecastle? A. As near as I can recollect.

Q. About ten feet inside of the rail?

A. I would say approximately that, eight or ten feet inside of the rail.

Q. On top of the cargo on the port side?

A. Yes, sir.

Q. How far did you say you were inside of the line of the stanchions at that time?

A. Well, I would be eight or ten feet—eight or nine feet inside of the stanchions at the time.

Q. Were you looking over the stanchions?

A. No, sir.

Q. Were you looking inside the line of the stanchions? A. Yes, sir.

Q. You could not see the entire after block?

A. No, sir.

Q. Could you see the entire forward block—that is, forward block—forward end of the lights?

A. Oh, approximately all of it, yes, sir.

Q. Did you make any other observation to determine whether the line of stanchions on the port side obscured the light? A. No, sir.

Q. The weight of the cargo at that time was on the starboard stanchions, wasn't it? She had a heavy starboard list? A. She had a heavy starboard list.

Q. Would that throw the weight of the cargo to the starboard stanchions? A. No, sir.

Q. How much of a list did she have?

A. Oh, in the neighborhood, I should say, of eleven or twelve degrees now. I have forgotten just what it was; it was considerable of a list.

Q. Wouldn't the tendency of that list be to throw the weight of the cargo from the port stanchions towards the starboard stanchions?

A. The tendency would be that way, yes.

Q. But you think as an actual fact that the weight was not over towards the starboard stanchions?

A. No, sir.

Q. This cargo was lashed to the port stanchions, was it.

A. The cargo was not lashed to the stanchions at all.

Q. It was not lashed to the stanchions at all?

Q. It was not lashed to the stanchions? A. No, sir.

Q. Were there any lashings across the top of the stanchions?

A. That I could not recollect, I think there was, I am not sure.

Q. If that is true, then the weight thrown over on to the starboard stanchions would draw the port stanchions towards the starboard, wouldn't they? A. No.

Q. You do not think that would be true? A. No.

Q. Had the deck cargo shifted any? A. No.

Q. Not at all? A. No, sir.

Q. Did you go back on the navigating deck and look forward to see whether— A. No, sir.

Q. You did not make any observation from that point? A. No, sir.

Q. How did you happen to be making this observation the morning after the collision to determine whether or not the stanchions obscured the light?

A. I had heard one of the surveyors say something, and I wondered if it was possible, and to satisfy myself I made this observation.

Q. After you had made the observation, did you say anything to this surveyor? A. No, sir.

Q. Who was this surveyor?

A. I am not sure who it was; there were a number aboard. There was Clift and Gibbs and Fowler all aboard. I heard them discussing it, and made the observation on that account.

Q. Did they also make observations?

A. I don't know.

Q. How did the discussion happen to arise, if they had made no observations?

A. Why, it was just mentioned.

Q. As being a possibility?

A. There was something said at that time about it, I do not recollect just what; something was said about it that drew my attention to it.

Q. You made your observation to satisfy yourself, did you, that the light was not obscured? A. Yes, sir.

Q. You did not say anything to the surveyor about that? A. No, sir.

Q. Or ask them to make an observation?

A. No, sir.

Q. What was the height of those stanchions above the deck? A. Oh, they are various heights.

Q. What was the height of the highest one?

A. Twenty feet.

Q. I mean above the deck load?

A. Above the deck load, it would be six feet above the deck load.

Q. As you stand on the forecastle deck, were those stanchions higher than or below the line of vision?

A. They were higher.

Q. They were higher than you were? A. Yes, sir.

Q. Was the forecastle deck higher than the deck cargo?

A. No, the deck cargo was higher than the forecastle.

Q. How much higher?

A. About five and a half or six feet. The forecastle is eight and a half or nine feet high I should say above the main deck.

Q. Did you notice the cargo, the way it was loaded on the after deck of the Strathalbyn? A. Yes, sir.

Q. Was it loaded in the same manner it was loaded on the forward deck? A. Yes, sir.

Q. The stanchions placed in the same way.

A. Yes, sir.

MR. BOGLE: I would like at this time to demand the loading plans of the steamer Strathalbyn.

MR. HAYDEN: If we have them we will be glad to produce them.

MR. BOGLE: Q. Mr. Leach, how long was it after the arrival of the steamship Virginian in the port of Tacoma after the collision before you left in this launch to go out to the Strathalbyn?

A. Oh, fifteen minutes to a half an hour, something like that, it was only a short time. I was on the dock when the Virginian came in, and my recollection is we went right over to the launch house and took the launch.

Q. Where were you sitting on the launch as you left the port of Tacoma?

A. I was standing on the forward deck of the launch.

Q. You were standing out with Mr. Macquarrie?

A. Yes, sir.

Q. As you rounded Brown's Point, how far were you off the Point?

A. Oh, I could not say, I don't recollect.

Q. Were you an eighth of a mile or a quarter?

A. I would not say whether I was—I know I was not a mile, but that is about all I can say; I could not say an eighth of a mile or a half a mile.

Q. And after rounding Brown's Point ahead for Robinson, you followed the coast line?

A. We followed the coast line fairly close.

Q. You were looking for the Strathalbyn all the time? A. Yes, sir.

Q. How far were you from Brown's Point and how close to Dash Point at the time you picked up the Strathalbyn red light?

A. We were fairly close to Dash Point, I should say.

Q. Do you know what direction you were headed at that time?

A. No, I don't. I was not steering. We were following the shore and we were making pretty close to Dash Point, just around Dash Point.

Q. Was your course from Brown's to Dash so that you were following the coast and passing just off Dash Point? A. Just off of Dash Point.

Q. Where was this red light when you saw it?

A. Why, it was off to our port bow.

Q. About how far, how many degrees?

A. Oh, I could not say.

Q. Was it well off or ahead of you?

A. It was not ahead of us, it was pretty well off towards one side.

Q. Was it over towards Robinson's Point?

A. Yes, sir.

Q. Was it in line between you and Robinson Point light?

A. I don't recollect having seen Robinson Point light that night at all, so I could not tell you.

Q. Do you know how far it was from Robinson's Point? A. No, I could not say that neither.

Q. What light is there on Robinson Point?

A. There is a red flash light, I think.

Q. Did you notice this red flash light at all on that night? A. I did not.

Q. How long after you followed up the red light was it before you picked up the masthead light?

A. Just a minute or two.

Q. This launch is down pretty close to the water, isn't it? A. Yes, sir.

Q. You picked up these lights by looking up?

A. Well, she was so far away you could not hardly say it was looking up; it was looking up, of course.

Q. Was it apparently stationary, or could you see it move?

A. Stationary—you could see it was moving ahead after things got lined on it and watch it, then you could see it moving.

Q. You could see it moving against the back line of the shore?

A. The shore was indistinct, but you could see it moving from our approximate position; that is the way we knew it was a steamer light.

Q. You changed your course and headed for this light? A. Yes, sir.

Q. Where was the Strathalbyn when you arrived along side; how far from Robinson?

A. Why, she was, I should say she was a mile off of Dash Point.

Q. A mile off of Dash?

A. Yes, something like that—approximate distance.

Q. How far do you estimate she was away when you first saw her?

A. Oh, she must have been two or two and a half miles anyway.

Q. How long did it take you to arrive along side? How long did it take to run the launch to her after you first picked her up. A. I don't know; I didn't time it.

Q. What is your best recollection?

A. Perhaps fifteen or twenty minutes.

Q. Do you know the speed of this launch?

A. No, I don't.

Q. Did you notice Robinson's Point at all on this night? A. No, sir.

Q. How was the red light when you first saw it, was it a bright light or a dim light?

A. Why, it is a bright light.

Q. Is it as bright as an electric light?

A. No, it is not as bright as an electric light.

Q. Could you tell from that distance that it was an oil light? A. No, I could not tell what it was.

Q. Was the masthead light about the same?

A. Well, the masthead light was a brighter light; it is a white light and therefore brighter.

Q. How do you explain the fact that you picked up the red light before you picked up the masthead light?

A. Why, we may have seen the masthead light, but didn't realize what it was; it is a white light and you could not tell; but we did not see it to know what it was until after we seen the red light.

Q. Could you tell there was a steamer there if you saw the masthead light?

A. No, not necessarily; there might be a light on shore, you could not tell.

Q. Was it about the same kind of a light you might see ashore? A. Yes, sir.

Q. Approaching this time you only saw two lights, masthead and red light? A. Yes, sir.

Q. When did you first see the starboard light after that, the green light?

A. After we rounded the ship, when we went around on the starboard side of her.

Q. As you were approaching the Strathalbyn this first time, were you approaching in such a position that you could have seen the green light if it had been burning? A. We could not have seen it, no.

Q. Why was that?

A. From the position in which we were; we were approaching from the port side.

Q. It would not have been possible?

A. No, it would not.

Q. When approaching the Strathalbyn the second time, about where did you pick her up?

A. After coming from the St. Paul.

Q. The second time you approached her?

A. That was coming from the St. Paul dock. We picked her up, oh, perhaps a quarter to a half a mile this side of Brown's Point.

Q. That is coming into the harbor of Tacoma?

A. Yes, sir.

MR. HAYDEN: What do you mean by "picking her up"?

MR. BOGLE: That is exactly what I mean, when you first noticed her.

A. When I first noticed her, she was just rounding Brown's Point.

Q. Had she started to swing into the harbor at that time, when you first saw her?

A. I suppose so, I don't know.

MR. HAYDEN: What do you mean by "picking her up," when you went aboard of her when you got out to her? A. When we got out to her.

MR. BOGLE: Q. When did you first see her?

A. The second time?

Q. Yes.

A. Just as she was rounding Brown's Point.

Q. What did you see then?

A. I saw the white light, and a few minutes after the red light.

Q. When did you see the green light?

A. Not until after we had started off towards her.

Q. How far was she away then?

A. Oh, half a mile or a mile.

Q. Do you know how far she was off Brown's Point? A. When we first saw her?

Q. Yes.

A. Something under a quarter of a mile when we first saw all three of the lights.

Q. When you first saw all three? Where was she when you first saw all three?

A. Something like a quarter of a mile off Brown's Point.

Q. Had she made the turn around Brown's Point?

A. Yes, sir.

Q. Was headed into the harbor? A. Yes, sir.

Q. You were headed out? A. Yes, sir.

Q. Was Mr. Macquarrie still on deck? You had left him at the ship? A. He was on board the steamer.

Q. Was anybody else out on deck?

A. No, I think both launch men were inside, one steering and the other tending to the launch; the other one had been left on the St. Paul dock.

Q. You think she was half a mile to a mile away when you first saw all three of the lights? A. Yes, sir.

Q. You saw them all at the same time. A. Yes, sir.

Q. You are positive of that, are you? A. Yes, sir.

Q. What did you do after you saw all three of those lights? A. Went along side the steamer.

Q. What side did you go? Did you change your course in order to swing around and come along side of her?

A. No, I didn't go up to board her; I went along on the starboard side of her and they hollered out to me and told me they had decided not to put her in the St. Paul.

Q. You changed your course a little and went around on the starboard side?

A. Came along on the starboard side.

Q. You changed your course?

A. No, we did not change our course,—no changing of the course, we was headed right for her.

Q. You must have changed your course?

A. We were so far away you would not hit her exactly.

Q. You were directly ahead of her at that time?

A. Yes, sir.

Q. And approached on a course directly opposite to hers? A. Yes, sir.

Q. You particularly noticed that?

A. Yes, sir, we were steering for her.

Q. What list do you think she had at that time, Mr. Leach?

A. Oh, you could not tell; the only way you could tell—you could not see her, it was dark, the only way you could tell would be the relative position of the red and green light; that is the only way you could tell what kind of a list she had.

Q. What was the relative position of the red and green light?

A. The headlight was considerably higher than the green light.

Q. Did you have any trouble in making out the green light at all. A. Oh, no.

Q. You could see that perfectly plain, too?

A. Yes, sir.

Q. Did you pass any other steamer when you were approaching,—any other steamer or tug passing you when you were approaching the Strathalbyn off of Brown's Point? A. Not that I recollect of.

Q. Did you see any other steamer or tug in that vicinity at all.

A. I think there was a tow boat out there somewhere.

Q. Where was this tow boat?

A. Why, somewhere near the Strathalbyn; my recollection is there was one.

Q. Do you remember with reference to the launch, where she was? She was ahead of you?

A. Yes, she was ahead of us.

Q. You did not see these lights until after she had rounded Brown's Point and had changed her course so that she was headed in towards the harbor, did you?

A. Did not see all of them, no.

Q. After you first picked them up did you watch them up until the time you approached close to her?

A. Why, watched them only enough to see where we were going, that is all.

Q. I mean did you watch all three lights from that time up to the time you got along side of her?

A. Why, watched them for what reason?

Q. I don't know why you were watching them; I asked whether you did or not.

A. Watched them enough to steer out to the ship.

Q. You, of course, were not steering the ship, so you had not reason to watch them for that purpose?

A. I was telling the launchman where to put me and what to do.

Q. Then you went back to the buoy, did you, in Tacoma harbor? A. Yes, sir.

Q. Did they drop you on the buoy? A. Yes, sir.

Q. You stayed on the buoy while the vessel was approaching you? A. Yes, sir.

Q. You again saw all three lights? A. Yes, sir.

Q. How far away was she when you saw all three lights the second time?

A. Oh, eighth of a mile possibly, you could not say though; I cannot recollect just what time I did see all three of them. As she rounded up and got squared up for the buoy, I was off.

Q. So she came right straight down on to the buoy, did she? A. Yes, sir.

Q. Do you know how the tide was running that night, Mr. Leach?

A. No, I could not tell you whether it was flooding or ebbing.

Q. She did not make any maneuver or circle in order to get up to the buoy, but came straight down on it?

A. When she came in she came in over towards East Tacoma, that is the direction she came in from.

Q. What direction from the buoy?

A. I don't know what direction it is, unless I took a chart and looked at it; pretty near north, I should say.

Q. She came right down, straight down on to the buoy, did she?

A. Yes, with her bow a little off to the right of the buoy, looking at her.

Q. How far off to the right of the buoy?

A. Not very much, about twenty feet.

Q. You could see all her lights up to what time?

A. Till she got fairly close to the buoy.

Q. How close? A. A couple of hundred fathoms.

Q. Then which lights shut out? A. The red light.

Q. She came along on her starboard side of the buoy, did she? A. Yes, sir.

Q. You got in the boat,—you had a boat there?

A. We had a launch. I had sent the launch to the ship when she got reasonably close to the buoy to get their line.

Q. They brought the line back to you and you fastened it to the buoy? A. Yes, sir.

Q. Do you remember which way she was swinging after she got a line to the buoy? A. I do not.

Q. You took notice of the fact did you, Mr. Leach, that both of these times as she came from Brown's Point, and as she was approaching the buoy, the fact that you could see all three of her lights? A. Yes, sir.

Q. Was that anything unusual to be able to do that?

A. No, it—you can always see it on a steamer.

Q. Why should that fact particularly impress itself on your memory?

A. From the fact she had been in a collision.

Q. You were particular to see whether the lights were out? A. Yes, sir.

Q. You had already seen her lights as you approached off Dash Point?

A. I had not seen them all at once.

Q. You had not seen them all at once?

A. Not off Dash Point.

Q. That is what you were trying to do, see them all at once? A. Yes, sir.

Q. Why did that matter particularly impress you that you wanted to see all her lights at once?

A. From the fact she had been in a collision.

Q. Was that any reason why you should want to see all her lights at once? A. Naturally.

Q. Any question arise about her lights?

A. No question arose, but that is what any one interested in the line of business I am doing would look to see. Any sailor or any one else that has anything to do with shipping would look after a collision to see whether her lights were right.

Q. What do you mean by "whether her lights were right"?

A. Whether you could see them all—whether they were in right position.

Q. You mean whether you could see them all at once?

A. Yes, if you were in the right position to see all at once, whether you could or not.

Q. You were trying to see if you could see all the lights at once to determine whether or not the stanchions obstructed any of them?

A. No, stanchions had not entered my head at that time.

Q. Did you see anything else to obstruct the lights?

A. Nothing, unless they had not been burning.

Q. You had seen her lights off of Dash Point?

A. Yes, sir.

Q. You knew they were all three burning?

A. I knew after I had rounded the steamer that all three were burning.

Q. Did you look as you left her the first time,—the time you left Mr. Macquarrie aboard as you pulled away from her, to see whether all lights were burning?

A. No, sir, I do not recollect looking at that time.

Q. You did that particularly on approaching her the second time? A. Yes, sir.

Q. Was that to see whether the lights were burning or whether they were obstructed?

A. To see whether they were burning.

Q. You knew they had been burning a few minutes before when you had seen her, didn't you?

A. I was interested in knowing whether they were burning then or not.

Q. That was merely to see whether they had continued to burn? A. Yes, sir.

Q. Had any question been raised as to whether her lights were in danger of going out?

A. No, I had talked to no one; had seen no one aboard the ship.

Q. You had seen her once and saw that all her lights were burning, and the second time you noticed particularly to see whether they were all burning at once? A. Yes, sir.

Q. Is that what you did? A. Yes, sir.

Q. That was for the purpose of seeing whether they were obstructed or not, wasn't it?

A. To see whether they were all right or not.

Q. To see whether they were obscured?

A. To see whether they were obscured and to see whether they were burning, but to see whether her lights were all right.

Q. Then, there had been some question in your mind as to whether the lights were obscured? A. No.

Q. Had it occurred to you that her cargo was loaded so that the stanchions might obscure the lights?

A. No, sir.

Q. That had not occurred to you? A. No, sir.

Q. So you were not looking to see whether they were obscured? A. No, sir.

Q. Merely to see whether they were burning?

A. To see whether they were all right or not.

Q. If there was no question of their being obscured, it would make no difference whether you could see all at the same time or not, would it? A. Oh, no.

Q. Did you tell the launch man to approach her in a position directly head on so that you could ascertain whether they were burning or not?

A. No, we were headed direct for her; she was headed in a position we occupied, and as a consequence came bow on to her.

Q. Mr. Leach, this cargo on this Strathalbyn as loaded prior to the collision had never been surveyed by a marine surveyor? A. Not to my knowledge.

Q. Isn't it customary to survey a cargo, especially for insurance purposes, where a vessel is taking cargo?

A. No, not necessarily.

Q. I say, isn't it a custom of the underwriters to have their surveyors survey a deck cargo of lumber and pass upon it before the vessel leaves port?

MR. HAYDEN: I object to it as immaterial.

A. No, I don't think it is; it is not on our vessels.

Q. Have you a regular surveyor here who surveys your cargoes? A. No, sir.

Q. Did you have this cargo surveyed when she left the second time, after the collision?

A. I don't know, I was not on her the second time, had nothing to do with her the second time.

Q. Mr. Leach, do you know whether Capt. Clift surveyed that cargo before she left the second time?

A. I do not.

Q. After reports had been made? A. I do not.

Q. You never heard?

A. I may have heard, but if I have I have forgotten.

Q. You have no recollection of that at all?

A. No, sir, I had nothing to do whatever with her

and I think I was out of town when she left the second time.

Q. You think with a high deck load of cargo, fourteen feet on the forward deck, it is not customary to have a regular surveyor survey that cargo for insurance purposes?

A. No, there are lots of vessels going out without surveys.

Q. It is not customary?

A. It might be customary with some firms, and some firms not.

Q. It is not with your firm?

A. It is not with our firm.

Q. Did Capt. Clift ever survey any of your cargoes prior to his death?

A. Well, he surveyed cargoes, yes, a good many of them.

Q. On the steamers?

A. Yes, I think he did on some steamers.

Q. What steamers have you had leaving here with deck cargoes subsequent to this collision?

MR. HAYDEN: I object to that as immaterial.

A. Any number of them.

Q. Can you tell me any one of the steamers that has gone out with a deck cargo fourteen feet which has not been surveyed, subsequent to this collision?

A. Why, fourteen feet or more, yes.

Q. What steamers have you had go out with that deck cargo—

MR. HAYDEN: All of this is subject to my objection.

MR. BOGLE: (Continuing) which have not been surveyed by a marine surveyor?

A. I do not know, pretty hard to tell which ones had fourteen foot deck loads or more; there have been some of them go out, though, I know.

Q. Have any of your vessels with deck cargoes gone out without being surveyed? A. Yes, sir.

Q. Could you tell me of any one vessel?

A. I cannot recollect any particular one, no.

Q. Could you tell me any one which has been surveyed? A. No, I could not do that, either.

Q. Has Capt. Gibbs surveyed any of your cargoes since the date of this collision? A. One or two.

Q. Had he surveyed any of your cargoes prior to this collision?

A. No, I think not. Clift—well, yes, he had up in other districts, not in Tacoma; that is, Capt. Gibbs or Capt. Genereaux, I don't remember which one surveyed them.

Q. Did you have any other surveyors besides Capt. Gibbs or Capt. Genereaux survey any of your cargoes?

A. Capt. Clift—not any of the cargoes that I have worked on.

Q. Did Capt. Clift survey any of your cargoes subsequent to this collision? A. Sailing cargoes, yes.

Q. Subsequent to this collision?

A. Yes, sir; sailing vessels.

Q. Are you sure of that, Mr. Leach?

A. Yes, sir, I think so—yes, I know so.

Q. What cargoes did he survey?

A. Well, he surveyed the "Commerce"—Schooner "Commerce".

Q. When did she leave here?

A. Oh, I could not say just what time.

Q. You know that Capt. Clift is dead?

A. Yes, sir.

Q. You knew the condition he was in at the time of this collision? A. Yes, sir.

Q. Do you know whether or not Capt. Clift was asked by your firm to survey this cargo and pass upon it before the collision? A. I do not know.

Q. And whether or not he refused to pass upon it? Do you know anything about that?

A. I do not know anything about it; I would not know.

MR. HAYDEN: If you want to know about that, Mr. Bogle, as a matter of fact I will tell you what I know about it.

MR. BOGLE: If you can get the testimony of your people, I would be very glad to have it. I have been told something about it.

Q. You could not give me the name of any vessel which left here taking a cargo fourteen feet or more

which was surveyed subsequent to the time of this collision? A. No, sir.

Q. Who would be able to give us this information?

A. Why, Mr. Macquarrie could, I expect. I know that lots of them have had more than fourteen feet, but just which ones I do not recollect. Practically all of our steamers have gone out without a surveyor.

Q. Both prior and subsequent to this collision?

A. Yes, sir.

MR. BOGLE: I do not know whether it would be a proper demand or not, but if you are willing to comply with it, I would like to get that information.

RE DIRECT EXAMINATION BY MR. HAYDEN.

Q. In view of Mr. Bogle's cross examination as to whether or not the light screen might be visible from the deck of the Strathalbyn, I hand you a photograph and ask you—I hand you a photograph, Libellant's Identification Leach-1, and ask you if that photograph shows the light screen over deck? A. It does.

Q. Was that about as it appeared to you?

A. No, I saw more of it than that; I saw more of the wing of the ship and could see more of the lights.

MR. BOGLE: Where?

A. The side of the ship, the wing—steered out further towards the side of the ship.

MR. HAYDEN: But in that photograph you can see the light screen, can't you? A. Yes, sir.

Q. Well, I will ask you to look at Leach's Identification "B", and ask you if it appeared anything like that?

A. No, that is obscured more than it was when I saw it. I was—I think I was further around and could not see as much as I can here (indicating on photograph).

MR. BOGLE: I object to these photographs being introduced. It is not shown when they were taken or whether it is the Strathalbyn.

MR. HAYDEN: I am simply referring to them, that is all.

Q. You think you could see a little more of it?

A. Why, I could, and I could not; that is, if the stanchions were out I could see more of it—if that stan-

chion was out I could see more from where this photograph was taken than from where I stood.

Q. Neither of these photographs were in the same position you had reference to?

A. No, I stood between the line from which those photographs were taken.

Q. I see on this Claimant's Identification Leach No. 1—I notice you have a record here of the draft of the ship,—draft of the Strathalbyn. Was that record made at the time, after she was loaded? A. Yes, sir.

Q. What draft was she drawing aft after she was loaded? A. Twenty-five feet.

Q. What draft was she drawing forward after she was loaded? A. Twenty-two feet, six.

Q. Her mean draft was what?

A. Twenty-three, nine-tenths.

Q. Do you know whether or not that was after she had her bunkers in?

A. That was after she had her bunkers.

Q. When she was already to go to sea?

A. Yes, when she was shifted from the North End.

Q. To go to the buoy?

A. Yes, sir, that might vary her actual draft, by actual measurements; might vary from that draft anywhere from half an inch to an inch. That is as near as you can get by choppy sea, just by looking at it.

MR. HAYDEN: Do you want to introduce this?

MR. BOGLE: Yes.

MR. HAYDEN: I do not know the purpose of it. I guess you have everything you want out of it.

MR. BOGLE: I will offer it in evidence. If you afterwards have any objection, you may withdraw it.

MR. HAYDEN: Well, I object to a great deal of the data which is on here, on the ground that it is immaterial. I don't know what bearing it possibly could have on this part of the collision. If there is any particular portion of it that you think has a bearing on the collision, and you will indicate it, I will be able to cross examine in connection with it. It is a mass of figures and a mass of data; I do not know whether it is hearsay or what it is as far as it has gone in connection with it.

THE WITNESS: Some of the figures are approxi-

mate, and some of them are only—are taken from actual records, where you can get the actual figures.

MR. BOGLE: Q. Who made this record?

A. Why, I have forgotten now whether I made it or—I think I made it up, that is, I drew up a rough copy of it,—I am not sure.

Q. Does that give the total number of feet which were aboard the Strathalbyn upon which freight was charged? A. I think so.

Q. Is that as accurate an account as there is in existence as to the lumber which went aboard the Strathalbyn and the weight of same?

A. Well, the weight is only approximate.

Q. Is that the nearest approximation that you can get at this time?

A. Yes, it would be as near as I can get.

Q. Is there any other record which shows it more definitely, if so, I would prefer to have that; but if this is the best information you have, I want it?

A. This is all we would have. The weights are only approximate; there is no way for the cargo to be weighed.

Q. What lumber was on deck, Mr. Leach,—what kind of lumber? A. Oregon pine.

Q. It was all Oregon pine that was loaded on deck?

A. Yes, sir.

MR. BOGLE: I offer that in evidence.

MR. HAYDEN: It is subject to the objection I made.

Paper offered in evidence and marked "Claimant's Exhibit, Leach No. 1."

MR. HAYDEN: Q. So far as this Oregon pine was concerned, was there any Oregon pine loaded in the hold?

A. Yes, sir.

Q. Do you know how much was loaded in the hold?

MR. BOGLE: It will show from the amount loaded on deck, wouldn't it? A. About 1,185,000 under deck.

Q. 1,185,000? A. Yes, sir, Oregon pine.

Q. And the balance would be loaded above on the forward and after deck of the steamer?

A. Yes, the balance of the Oregon pine.

Q. Was there any other cargo than Oregon pine loaded on deck? A. No, sir.

Q. Any lath, pickets, or anything of that kind loaded on deck?

A. I don't recollect, there might have been a few; quite customary to put some around the hatches and winches on deck. That would come under Oregon pine cargo, though.

Q. Was there loaded on deck in addition to the Oregon pine, some red wood? A. Yes, sir.

Q. How long have you been occupied in loading steamers and vessels with lumber?

A. I have been working at it thirteen or fourteen years, in various capacities.

Q. How long have you been the super-cargo for the American Trading Company?

A. Nearly four years.

Q. Were you in a similar position prior to going with the American Trading Company?

A. No, I was tallying and inspecting up to that time.

Q. Tallying and inspecting lumber cargoes?

A. Yes, sir.

Q. At the time you first saw the Strathalbyn, could you tell the exact course she was taking, then, when you saw her off between Dash and Robinson? Could you tell her exact course from what you saw of her?

A. No, I don't think that I could; she was headed pretty well in toward shore.

Q. You say that the light on Robinson Point is a red flash light? A. I think so, yes, sir.

Q. It comes from observation or hearsay?

A. From observation; my recollection is, from passing on the Sound boats, it is a red flash light.

MR. HAYDEN: That is all I have.

RE-CROSS EXAMINATION.

(BY MR. BOGLE.)

Q. You said the Strathalbyn was headed toward shore? Which shore did you mean, the main land?

A. Main land.

Q. Brown's Point side? A. Yes, sir.

Q. Mr. Leach, I want to hand you this photograph

and ask you if that correctly represents the after cargo of the Strathalbyn as she was loaded?

MR. HAYDEN: Was that before or after the accident?

MR. BOGLE: Before the accident.

MR. HAYDEN: That is, before the after cargo was reloaded, or before.

MR. BOGLE: Before it was reloaded.

THE WITNESS: Before it was discharged.

Q. Before it was discharged?

A. Yes, sir, it does and it does not. The lashings have been removed there.

MR. BOGLE: All of the lashings have been removed?

A. All of them; there is not a lashing in sight.

Q. How has that affected the cargo?

A. It has not affected the cargo in any way so far as I can see. The lashings have been removed.

Q. With the exception of the lashings, doesn't it correctly show the condition of the after cargo after it was loaded? A. To my recollection of it, it does.

MR. BOGLE: I will offer that in evidence.

Thereupon said photograph was offered in evidence and marked "Claimant's Exhibit, Leach No. 2", and attached to this deposition.

(Witness excused.)

(Signature waived.)

An adjournment was here taken until Two o'clock P. M. of this date.

Two o'clock P. M., March 25, 1914.

F. P. McINTYRE, a witness produced on behalf of the Libelant, having been first duly sworn, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. What is your full name? A. F. P. McIntyre.

Q. McIntyre? A. Yes, sir.

Q. You are the same Mr. McIntyre who testified in this case heretofore? A. Yes, sir.

Q. You testified, if I remember correctly, that you

saw the masthead light and the port light of the Strathalbyn as the Flyer was approaching her?

A. After the collision?

Q. Before the collision, as the Flyer was approaching the Strathalbyn,—before the collision?

A. That I saw the masthead light and the port light?

Q. Yes. A. That is right.

Q. Did you observe whether or not that light,—either of those lights,—were flickering lights or whether they were steady lights?

A. I didn't pay any particular attention to whether they were flickering or steady; I simply saw the illumination of the bright light and the red light. We were about 1200 feet away, and I could not tell particularly whether they were flickering or not.

Q. Did they appear to go up and come down, as far as you could note, or go up and come down? Did you see any such movement of the light as that? A. No.

MR. BOGLE: I object to that; he has testified that he paid no particular attention to that, except he saw the illumination.

A. The sea was perfectly smooth, but there was no rise and fall to the light or nothing, but the bright light and the red light, the same as all other lights would appear on a vessel.

MR. HAYDEN: Q. Did you notice whether or not the masthead light went out at any time while you were looking at it? A. I did not.

Q. Did you notice the lights on the Strathalbyn as the Flyer was drawing away from her after the collision in coming to Tacoma? A. Yes, sir.

Q. Where were you standing when the Flyer was going away from the Strathalbyn towards Tacoma after the collision?

A. I was on the upper deck by the pilot house.

Q. You were looking back, were you, at the Strathalbyn after you drew away,—while you were drawing away from her?

A. Yes, I stood on the Flyer upper deck and was watching her. She seemed to me to have a starboard list, and very much down by the head.

Q. Did you observe any lights as you were drawing away from her? A. I noticed her side light burning.

Q. Did you notice any other light at that time while you were drawing away from her?

A. You could see the lights on the vessel; we were quite close to her at that time, within speaking distance.

Q. After you left her and came on towards Tacoma, I am speaking about?

A. We passed—came around Robinson Point and came and took the turn, and just as we drew away from her and left her I could see her port and starboard light burning. We only watched her as we passed Robinson, then I went inside.

Q. Did you notice whether the masthead light was burning at that time or not?

A. I would not say particularly whether I took particular notice of the masthead light or not, but I did of the side light.

Q. How far away would you say the Strathalbyn was from you when you last saw the side lights as you were coming from the Strathalbyn on the Flyer after the collision?

A. Possibly half or three-quarters of a mile.

Q. Had the Strathalbyn turned around and was coming in towards Robinson Point? A. Yes, sir.

Q. And the Flyer had turned around and left her and was coming towards Tacoma?

A. It was on her starboard side; we went up and spoke to her and asked if she needed any help, and then turned and went towards Tacoma on her starboard side.

Q. That is, you drew ahead, you crossed from the starboard side over to the port side?

MR. BOGLE: I object to that as leading the witness.

A. As we came towards Tacoma we drew ahead of her and she seemed to turn in towards land, towards Robinson Point; then we could see her port side.

Q. Now, the day after this collision did you go out to the Strathalbyn when she was lying in Tacoma harbor? A. Yes, sir.

Q. Did you then make any observations with respect to whether or not either of the side lights on the

lower bridge of the Strathalbyn were visible from ahead?

A. I did.

Q. State what you did?

A. There was a scow lying on the starboard of the Strathalbyn. I got on the scow and stood on one of the stanchions in front of the scow as far forward as clear and looked along the stanchions of the steamer to see whether I could see that light,—whether it was in the clear or not.

Q. What was the result of your observation?

A. I could see it plainly, yes, sir.

Q. I hand you here this photograph marked “Libelant’s Exhibit, McIntyre A.”, and ask you if you recognize what that is?

A. I recognize the wreck of the Strathalbyn there.

Q. Does that picture show anybody in it that is familiar to yourself? A. I see myself there.

Q. Where do you see yourself?

A. Standing right here with an umbrella in my hand and a white collar on.

Q. Please mark with an arrow pointing to yourself. Draw the arrow down towards the bottom of the picture.

(Witness draws arrow as requested.)

Q. How does your position there, indicated by that arrow, correspond with the position you were in when you looked along the stanchions?

A. I stood on the front stanchion on the port side of the scow on the starboard side of the vessel.

Q. Stood on the stanchion of what?

A. On the stanchion of the scow.

MR. HAYDEN: I offer this in evidence.

MR. BOGLE: I object to it as being immaterial.

(Photograph marked “Libelant’s Exhibit, McIntyre “A”).)

Q. Did the Strathalbyn at that time have any list?

A. Yes, sir.

Q. Which way was she listed?

A. Listed starboard.

Q. Which side was the scow on?

A. Starboard side.

Q. Had the deck cargo been removed? A. No, sir.

Q. Was it apparently in the condition it was loaded in? A. Yes, sir.

MR. BOGLE: I object to that; this witness does not know how it was loaded.

MR. HAYDEN: Q. About what time was it you were out there?

A. About ten o'clock A. M., I should say.

Q. Was that the morning after the collision?

A. Yes, sir.

CROSS EXAMINATION.

(BY MR. BOGLE.)

Q. Mr. McIntyre, are you still connected with Sims & Levy, of Tacoma? A. Yes, sir.

Q. You testified in this case some two years ago, didn't you?

A. I testified in the case. I would not say whether it was two years ago or not.

Q. Shortly after the collision?

A. After the collision, yes, sir.

Q. 1912? A. Yes, sir.

Q. You knew as much about this collision then as you do now, didn't you? A. I should say I did.

Q. Mr. McIntyre, what is your business?

A. We supply crews to vessels.

Q. Sailors' home, eh? A. Yes, sir.

Q. Did you supply any portion of the crew to the Strathalbyn? A. Yes, sir.

Q. You get so much for each man you supply?

MR. HAYDEN: I object to that as immaterial.

A. They pay us for the supplying of the men.

Q. They pay you so much a man? A. Yes, sir.

Q. That is your business, getting hold of these sailors and supplying them to these ships?

A. We run a boarding house and take care of the sailors, and when a ship needs men we supply them.

Q. So much a head. At a prior time you were connected with the same business at Port Townsend?

A. Yes, sir.

Q. Do you know Capt. Beecher up there?

A. Yes, sir.

Q. Know him very well?

A. I have known him a great many years.

Q. Where were you standing on the Flyer when you saw the masthead and port light of the Strathalbyn, prior to the collision?

A. I was standing on the port side of the Flyer just abreast the cabin door.

Q. Abreast the cabin door? A. Yes, sir.

Q. Were there any lights in the cabin shining out while you were looking?

A. Lights in the cabin of the Flyer.

Q. Shining out of the windows?

A. Regular lights on the Flyer.

Q. Those were shining out both forward and after you, weren't they, just as they would through the windows? A. Yes, sir.

Q. Did you watch that head light and port light from the time you picked it up until you passed the Strathalbyn?

A. I would not say that I watched it particularly all the time, but I watched the vessel, and at intervals was watching it until we got past her and walked further aft just before the collision.

Q. This port light was a bright light, was it?

A. Red light.

Q. Was that a bright light?

A. Just the same as all vessels generally carry.

Q. Was it as bright as an electric light?

A. Beg pardon?

Q. Was it as bright as an electric light?

A. Well, in seeing a light approaching you cannot tell whether it is an electric light or an oil light, as far as that is concerned. The thickness of the glass, a red glass will show you a red light.

Q. You cannot tell if both were of the same brilliancy—is there any difference in the brilliancy between them and an electric light?

A. I would not say, I did not take particular notice enough for that.

Q. Now, after the collision as you testified, you went alongside the Strathalbyn? A. Yes, sir.

Q. She was turning at that time when you arrived? A. She was backing in at that time.

Q. Bow was swung?

A. The bow—the Virginian was just pulling away from her.

Q. After you had gone over to the Virginian you came back to the Strathalbyn? A. Yes, sir.

Q. And followed the Strathalbyn over towards Robinson Point? A. Yes, sir.

Q. During that time you were on the starboard side? A. I was on the port side of the Flyer.

Q. On the starboard side of the Strathalbyn?

A. Yes, sir, on the starboard side of the Strathalbyn.

Q. How far over towards Robinson Point did you follow the Strathalbyn?

A. We didn't follow her, we passed ahead of her after coming up along side. The captain spoke to her and asked if they needed any assistance, and the captain said, no, he thought he was all right. He said he would proceed to Tacoma and report, and we passed on ahead of them then.

Q. You did not stay along side any length of time?

A. No, sir.

Q. Where was the Strathalbyn when you passed on ahead for Tacoma?

A. She was a very short distance from where they collided.

Q. How far was she from Point Robinson?

A. I should say about two-thirds of the way—about one-third from Point Robinson to the other Point, making two-thirds this way.

Q. That is, a third of the distance north between Robinson and Pulley?

A. Yes, a third of the distance north from Robinson and Pulley, that is north.

MR. HAYDEN: What was the question?

THE WITNESS: He wanted to know how far from Robinson she was.

MR. BOGLE: Q. At the time you left the Strathalbyn, had she straightened around on her course?

A. She had straightened around on her course, and I would say,—not looking at the compass,—about for Tacoma?

Q. Not for Robinson Point?

A. We came up parallel with her on the starboard side of the Strathalbyn. After the captain spoke she turned on ahead; she swung or was swinging, which I could not say. She appeared to swing in, or we were swinging out, so we could see her watch.

Q. You stayed out and watched her? A. Yes, sir.

Q. Was she headed towards Robinson Point?

A. Yes, sir.

Q. As near as you can say?

A. Yes, sir, as near as I can say.

Q. How far do you think she had moved from the point of the collision at the time you left her?

A. I would not say.

Q. Had she gone 100 yards?

A. I would not say.

Q. Well, had she gone more than 100 yards?

A. I could not say.

Q. You know about how far she had gone?

A. No, I cannot say; at night you cannot tell, no one could tell how far they had gone unless they took a bearing of the land and saw how far they had moved. I would not venture to say how far she had gone; I might make an estimate.

Q. What is your best estimate?

A. Oh, I would say possibly 300 yards.

Q. Where was the Virginian at that time?

A. The Virginian had—seemed to be lying about the same position as she was when we left her.

Q. As you watched the Strathalbyn after you passed on, could you see the Virginian too? A. Yes, sir.

Q. What maneuvers was she making, if any?

A. She had a cluster of electric lights hanging down over the bow, you could see the lights down upon the water; we thought it was lights shining through from the inside.

Q. What maneuvers were she making?

A. Could not see what maneuvers she was making.

Q. When you last saw the Strathalbyn, was the Virginian in her vicinity? A. In her vicinity?

Q. In the vicinity of the Strathalbyn when you last saw the Strathalbyn?

A. When we last saw the Strathalbyn, the Vir-

ginian, as I say, was about where she appeared to be right after the collision.

Q. She had moved up along side the Strathalbyn?

A. No, sir.

Q. That is the last you saw of the Strathalbyn?

A. That is the last I saw of her.

Q. Now, Mr. McIntyre, you say that the day after this collision you went over to the Strathalbyn?

A. Yes, sir.

Q. And made these observations? A. Yes, sir.

Q. Where was the Strathalbyn lying at that time?

A. At the head of Tacoma Bay.

Q. Was she on the beach—was she on the bottom?

A. I could not say whether she was on the bottom or not; she was anchored over ahead of the buoy; I could not say whether on the bottom or not, I did not ask, and I don't know the depth of the water there.

Q. Was she at the regular buoy?

A. I would not say whether she was at the buoy or at anchor.

Q. She was up on the mud flats when you saw her?

A. She was up at the head of the Bay, yes.

Q. You are not interested in the Strathalbyn in any way? A. None whatever.

Q. What was your interest in going over there this morning to make observations?

A. Being interested in shipping all my life.

Q. Not a very busy man are you, Mr. McIntyre?

A. I beg pardon?

Q. You are not a very busy man, are you?

A. I am busy at times, then again I am not busy.

Q. You were not very busy the next day?

A. I had nothing to do the next day. Our business is spasmodic, goes along some weeks, sometimes two weeks and we never have anything to do; then again we are busy forty-eight hours on a stretch.

Q. Did you have to get a boat?

A. I went down to Foss's Boat House and several others went down and secured the boat that I went out on.

Q. Do you know Mr. Leach? A. Yes, sir.

Q. Did he go out with you?

A. I think Mr. Leach; I know Capt. Clift went out with us, and I think Capt. Leach, I would not say for sure, as I didn't know Mr. Leach particularly at that time. I also think Capt. Bradley was in the launch, I would not say particularly whether he was or not.

Q. What was your purpose in going out on this trip, Mr. McIntyre?

A. I went out to see how the damage was done and what possibly could have done it and how it could have been done.

Q. At that time was there any question in your mind about that light being obscured?

A. None whatever. I simply wanted to see the damage done to the vessel. My father was a seafaring man.

Q. That is all right; we want to get down to the facts. I want to know for what purpose you went out that morning?

A. I went out to see the damage done to the vessel.

Q. It had never occurred to you at that time that there might have been an obscuration of those lights?

A. Not in the least.

Q. Notwithstanding that fact, you went over and got on the scow, climbed on top of the stanchion to make an observation to see?

A. I got up on the stanchion to take a look to see if by any possible chance anything of that kind occurred.

Q. Never occurred to you that might have happened at that time? A. Never has, no, sir.

Q. You wanted to get up there to see whether it did? A. I did.

Q. It must have occurred to you it might have happened. You had thought of that, hadn't you?

A. Do you mean I had thought that was the cause of the collision?

Q. Thought that might have caused the collision? That had occurred to you, hadn't it?

A. No, it had not.

Q. Still you went out to make your observation without ever thinking about—

A. I did, yes, sir.

Q. What time do you think this was, what time of day?

A. I should think about ten o'clock in the morning.

Q. Did you say anything to Mr. Leach about your observation or your suspicions, if you had any?

A. No, sir, didn't speak to anyone about it at all. The only remark I ever made to any one at all was how it was possible for two vessels of that kind, at that time of night, to collide, when you could absolutely see the vessels.

MR. BOGLE: I move to strike that out.

Q. Answer the questions and we will get along better. I do not care about any of your observations.

A. All right, sir.

Q. At the time you made this observation had they started to unload any of the cargo from the Strathalbyn?

A. They had not.

Q. Had the deck lashings been loosened at that time? A. I would not say.

Q. Did you see any deck lashings on the cargo?

A. I would not say whether I did or not, because I did not take notice of them.

Q. Did you know that this picture was being taken?

A. At the time it was taken I did, yes, sir. I did not know that picture was to be taken, I knew they were out there, several photographers, taking different photographs.

Q. How was this scow lashed along side the Strathalbyn? A. I would not say.

Q. Was the stanchion on the scow upon which you stood to make this observation along flush with the hull of the Strathalbyn?

A. No, sir, it was not flush with the hull of the Strathalbyn; the scow was lying against the Strathalbyn and the stanchion was set in possibly twelve inches.

Q. On the scow?

A. Yes, so I had to lean over and put my hand against the deck load, this way (illustrating) to look along the side.

Q. So this portion of the scow where you were standing was not flush with the side of the Strathalbyn, the scow itself?

A. I would not say exactly whether it was absolutely up against her or not.

Q. And did you stand at the position where the arrow indicates you are at the time of making this observation? A. No, sir, I did not.

Q. Upon what stanchion did you stand?

A. I stood upon the forward stanchion, one of these stanchions right here (indicating on photograph). I would not point exactly, but I was on one of the stanchions here which was just ahead of two of the uprights on the deck load, and looked ahead.

Q. The stanchion you point to is the last stanchion forward, on the inside—on the side of the scow close to the vessel?

A. You say it is the last stanchion? No, I would not say it is the last stanchion forward. I would not say whether it was a bit or whether it was a stanchion; it was one of the stanchions right along the row with the side of the scow. Say this is the scow, there is a row of stanchions along the scow (indicating on photograph).

Q. You will have to demonstrate that?

A. I was standing on a stanchion on the forward end of the scow, so I could lean against the deck load and look after and see the lights past the uprights on the steamer, that is as near as I can get it.

Q. That is on the starboard side of the steamer?

A. Yes, sir.

Q. Did you make any observations on the port side?

A. I did not.

Q. You stood on that stanchion and leaned over against the stanchions on the steamer, did you?

A. Stanchions or deck load? I leaned against the vessel and looked along outside of the uprights that held the load on the vessel.

Q. What do you mean by the "uprights"?

A. They are timbers that are up and down to hold the deck load.

Q. Were those timbers standing straight up and down?

A. I would not say exactly straight up and down. I didn't put a level on them; they were upright.

Q. Were they apparently straight up and down on a line with the vessel?

A. Do you mean fore and aft, or athwartships?

Q. Straight up and down.

A. Do you mean a line fore and aft, or athwartships?

Q. Did these stanchions lean up or down or outward? A. I did not take notice.

Q. If they had leaned one way or the other, do you think you would have noticed it in making this observation? A. I don't think so.

Q. The Strathalbyn had considerable list at that time, didn't she? A. Yes, sir.

Q. This scow was not flush with the rail, the hull of the Strathalbyn, was it?

A. Do you mean so you could step aboard flush?

Q. No, wouldn't it lay on an angle to the hull?

A. No, the scow would be upright.

Q. The scow would be upright, but the steamer leaning to starboard would have a tendency to overhang the scow, wouldn't it?

A. So few degrees she would not show,—few degrees of the list she would not very perceptibly. Possibly if there was a perceptible deviation, it would not be noticed, although if the upper part of the scow was absolutely against the hull of the vessel there might be a distance that the lower part of the scow at the water line would not be against her, that would not be perceptible looking down.

Q. How much of a list do you think the Strathalbyn had at that time? A. Possibly five degrees.

Q. And you could not tell which way these stanchions were leaning? A. I did not take notice.

Q. What could you see standing on top of this stanchion on the scow? What could you see of the light box? There was a light in the box at that time?

A. I don't remember exactly whether the light was in the box at that time or not, but I think it was.

Q. Could you see the light itself?

A. That was day time.

Q. From where you were standing on this scow

making your observation, could you see the starboard light? A. You mean light or lamp?

Q. The lamp.

A. I don't remember exactly at this time now whether the lamp was in there or not.

Q. You don't remember whether you saw it or not?

A. I remember I saw the screen box.

Q. Do you remember whether you saw the lamp or not?

A. I would not say whether the lamp was in there or not.

Q. I am not asking you whether it was in there, I am asking you whether you saw it or not?

MR. HAYDEN: How many times does he have to say he don't remember?

A. I would not say, because I told you I did not remember.

Q. You do not remember whether you saw it? I am not asking you whether you remember it was in there or not, I am asking you whether you remember that you saw it? A. I said that—

Q. Standing on this scow, making your observation, did you or did you not see the light itself, the globe or lamp? A. Do you mean lamp or light?

Q. The lamp?

A. All right, sir. As I stood up there and looked, I don't remember whether the lamp was in the screen or not at this time. But had I been asked the next morning I would have told you, but at this time I don't remember, but I saw the screen box and I think the lamp was still in it.

Q. Well, now, you do not remember whether you saw the lamp or not, is that what you want to testify to?

A. I am telling you just what I said; I would not testify any different.

Q. I am asking you when you stood there whether you remember seeing that lamp or not?

MR. HAYDEN: I object to this; it has been answered five or six times already.

MR. BOGLE: Let him answer. He says he don't remember whether the lamp was in there or not.

MR. HAYDEN: I submit he has answered that question.

A. I told you at the present time I could not say whether it was or not now, but I think the lamp was there. That is what I said before.

Q. If that is all you can say, Mr. McIntyre, we will let it go at that. What did you see of the light box, Mr. McIntyre, on the starboard side?

A. What did I see of the light box?

Q. Yes.

A. Well, I didn't take any particular notice as to any portions,—particular portions of the light box,—but I could see the whole screen.

Q. In saying the screen, you mean the block on the forward end of the light box?

A. No, sir, I mean—there is a—of the long box, supposed to be about four feet, you could see the side of it, because I was a little out and you could see the side of it looking that way, and you saw right along the side of the block, you could see the whole thing. You could not see the back because you could not see through wood.

Q. You could see the forward end of the after end of the—the board which forms the back of the light screen, you could see the face of it?

A. I could not see the face of that. I don't remember whether the light was in there or not; if the light was in there I could not see the face.

Q. I am not trying to get at that, I am trying to find out what you saw?

A. Oidin't I tell you I don't remember whether the light was there or not? If at this time of day the light was there, I could not see that, it would be imposible, and I would be lying if I told you I did. I am telling you what I saw just as I remember it.

Q. Just tell me in detail what you saw as you remember it?

A. I saw the screen box, the side light screen, that is what we will call it.

Q. Now, referring to the screen box? A. Yes, sir.

Q. You saw the length,—the long board which runs parallel with the line of the ship, did you?

A. Fore and aft.

Q. You saw that board, did you?

A. If the light was in there I could see the entire board, because the light is about 12 inches, and that was set out 12 inches with the back end of it.

Q. You do not remember about that particularly; but did you see the rest of it?

A. Yes, sir.

Q. Now, there is a block at the forward end of the light screen, a board?

A. Some vessels have a small block and others don't.

Q. Did this vessel have a small block?

A. I would not say.

Q. You were a little bit out from the line of the stanchion looking—

A. I was on the outside of the line of stanchions, my face against the stanchions.

Q. And you were below this light box, weren't you—lower down weren't you? A. I should say yes.

Q. Now, Mr. McIntyre, you do not remember whether there was a block on the forward end of the light screen or not?

A. I did not take particular notice, I did not go aft and look at it.

Q. You do not know whether there was a light in the screen or not?

A. At that time I knew and I could have told you, but since that time, not being interested in the matter, I do not remember. My memory is not everlasting.

Q. I do not think it is.

A. If I had notes to go by, or something, or figures, I could tell you, but I don't remember.

Q. Did you make notes at the time?

A. I did not, I had no occasion to.

Q. Did you have all of these details in mind at the time you testified before? A. All what details?

Q. As to what you saw? A. I could not say that.

Q. As a matter of fact, now you haven't a very clear recollection of what you did see, have you?

A. Why, I told you what I saw.

Q. That is not a very clear recollection of what you actually saw?

A. Yes, my recollection is perfectly clear; I could not state whether the lamp was in there or not.

Q. You could not state whether it had a block on the forward end or not?

A. I did not take particular notice; I saw the screen there.

Q. All you saw looking along there was that there was a screen up there. You don't remember now what portions of that screen you saw?

A. I told you I saw the face of it, and the hole in there as the picture would take of the screen, the vision of the eye.

Q. You saw the entire face of it, did you?

A. With the exception of the light was in there, I could not see the part that was covered by the lamp.

Q. In other words, you do not remember what you did see, do you?

A. That may be possibly what you say.

Q. If you did, I would like to know.

A. I would like to tell you, sir, if I did.

Q. I think it is perfectly apparent that you did not.

MR. HAYDEN: I think it is apparent that he has testified to that half a dozen times already; all he remembers he has testified to.

MR. BOGLE: Q. Is that all you remember you saw? A. Yes, sir.

Q. That is all you remember that you saw, the face of the light screen?

A. At the present time, yes, sir.

MR. BOGLE: That is all.

RE-DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. You haven't any doubt but what you saw sufficient of the light screen to have shown a light if it had been there?

MR. BOGLE: I object to that.

A. Just as plain as I see this man sitting over here.

MR. BOGLE: Q. Why did you say that, if you don't remember what you saw?

A. Because I told you I saw a light screen; what more could I tell you.

MR. BOGLE: Q. Merely saw the face of the light

screen? You are perfectly sure the light was not obscured?

A. I had nothing to do with the light being obscured.

MR. BOGLE: Q. That is what you were trying to find out when you got up there? A. Yes, sir.

MR. BOGLE: Q. You testified yourself that it was not obscured? A. Yes, sir.

MR. BOGLE: Q. Being so, even to the light screen?

A. To my satisfaction, yes, sir.

(BY MR. HAYDEN.)

Q. You say that you have been to sea? A. Yes, sir.

Q. When did you start going to sea?

MR. BOGLE: I object to that as being improper redirect examination.

A. I went to sea with my father when I was a very small boy.

Q. Did you go frequently? A. Yes, sir.

Q. Have you been to sea since you got to be older than a small boy? A. Yes, sir.

Q. What positions have you been to sea in,—that is, what position did you occupy when you went to sea?

A. Passenger since I was grown up.

Q. Have you always been connected with the seafaring business? A. Yes, sir.

Q. How old are you now? A. Forty-two.

Q. Have you any relationship or connection in business or otherwise with anybody that has anything to do with the Strathalbyn or her cargo? A. No, sir.

RE-CROSS EXAMINATION.

(BY MR. BOGLE.)

Q. You are a personal friend of Capt. Beecher, are you? A. No.

Q. Did you know him at Port Townsend before you moved down here? A. Yes, sir.

Q. Have you had any talk with Capt. Beecher about this? A. No, sir.

Q. Did you take as much interest in every collision that has happened as you did in this one?

A. I have no particular interest, only examined as a witness and tell what I saw.

Q. I am talking about activity in making this observation and this trip over there?

A. I never have had occasion.

Q. This is the only one you have been mixed up in, is it?

A. No, sir, not any collisions, but several vessels have put back here in distress, to dismiss their load, and things like that, and I have gone aboard and looked at them.

Q. How long has it been since you went to sea?

A. How long has it been since I went to sea?

Q. Yes. A. In 1894—no, '97.

Q. About seventeen years—have you been connected with the Sailor's Home ever since.

A. I have been connected with the Sailor's Home for thirteen years.

Q. Are you in charge of the Sailor's Home?

A. I am one of them in charge.

Q. What are your particular duties?

A. Particular duties are to see the captains when they are ready for sea and desire crews, to fit the men and take them aboard the vessels.

Q. Is the latter part the important part of your duties, to take them aboard the vessel? A. Yes, sir.

(Witness excused.)

(Signature waived.)

ANDREW WAADNE, a witness produced on behalf of the Libelant, having been first duly sworn, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. What is your name?

A. My name is Andrew Waadne.

Q. Where do you live? A. 2711 North 30th.

Q. Were you living in Tacoma when the Strathalbyn was loaded with the cargo that she carried on the night she came into collision with the Virginian?

A. I was, yes, sir.

Q. Did you have anything to do with loading that cargo on the Strathalbyn? A. I did, yes, sir.

Q. Did you have anything to do with fixing the stanchions on the forward deck?

A. I did, yes, sir, I superintended putting them up.

Q. Will you please state how those stanchions were placed and whether or not they were upright or leaned outboard or leaned inboard?

A. Well, they were placed good and solid, because there is one thing that I pride myself on in stevedoring, and that is putting up stanchions.

Q. How were those stanchions put up on the forward deck of the Strathalbyn?

A. What do you mean, for being upright?

Q. Yes; how did you put them up; how did you fix them?

A. Well, when I start to put up stanchions I generally get up say two or three feet on the deck and put up a stanchion deck generally out of the cargo.

Q. You mean you put the cargo two or three feet out of the deck? A. Yes, sir.

MR. BOGLE: You testify to this particular cargo on the Strathalbyn? A. Yes, this particular cargo.

Q. This particular cargo, how you loaded that?

A. Well, as far as I remember, I done the usual way. I put in the stanchions after I got up two or three feet on the deck so I can block them solid against the lumber and main bulkhead; I start that after stanchions. I take the men that is working for me there and have them raise the stanchion up against the rail, then I stand on the fore part of the stanchion and look against the house midships and super-structure, get in the right position I want him, and I always give them a lean in. In this particular case they were leaning in.

Q. Then what do you do? You have been describing how you put in the stanchions? A. Yes, sir.

Q. First forward of the house. How do you do with the other stanchion?

A. The next one I take a line of the forecastle; I take a line on that through the stanchion.

Q. And do what with it?

A. Well, put it with line with the first one I put up, put it in the same position.

Q. You do that all the way up? A. Yes, sir.

Q. All the way up forward?

A. All the way up forward.

Q. Do you remember the size of the stanchions that were used on the Strathalbyn for this forward cargo?

A. I do, they were 6 by 12.

Q. Which side of the stanchion was placed against the rail? A. The flat side, the 12 inch side.

Q. That was so with all of the stanchions?

A. All of them, yes.

Q. Did you observe the Strathalbyn after she had been unloaded and reloaded? A. I did, yes, sir.

Q. Did you at my request go out and see whether or not the stanchions were—how they compared with the stanchions on her—that is, how the stanchions that were put on her when reloaded compared with the stanchions that were put on her when you loaded her?

A. Yes, I did.

Q. You made that observation, did you?

A. I did make that observation.

Q. How did they compare?

A. On one side they were just about the same thing.

Q. Which side.

A. On the port side. They were just exactly, with the exception of one that was out of line that fell down and was put up again. It appeared as though it had fell down and put up again afterwards; that seemed to be out of line.

Q. How much was the other side, the starboard side?

A. The other side was further out than it had been before, to my judgment.

Q. Did you while the Strathalbyn was unloading have anything to do with the unloading of her when she came in?

A. I discharged the forward deck, except for a few timbers that were down on the forward deck, on the bottom of the deck.

Q. Did you make any examination of the stanchions as they were standing after the Strathalbyn came in before the deck cargo was taken off?

A. Well, I made no special examination, but I remember that they all appeared to me to be in the same

position they were put in. The hand rails were still solid on the stanchions. They were nailed along to keep people from falling overboard, about three feet from the deck.

Q. Did you sight along the outside of the stanchions on either side to see whether or not you could see the light screens, before the deck load was taken off?

A. No, sir, I didn't.

Q. Did you after the deck load was reloaded, at my request, sight along to see whether or not you could see the light screens on the outside of the deck load?

A. I did.

Q. Could you see them?

A. Anything on the port side, yes; it is clear on the starboard side, was straight ahead.

Q. While you were on the forward deck of the Strathalbyn did you notice whether or not you could see the light screens through the stanchions or behind any of the stanchions; that is, after the cargo was reloaded?

A. Yes, sir.

Q. Did you make that observation before the cargo was taken off? A. No, I did not.

Q. Could you see the light screens through the stanchions on the Strathalbyn after she was reloaded?

A. I did, on the port side; I did not notice on the other side.

Q. Referring now to these photographs marked "Libelant's Identification Leach A. and Leach B.," I will ask you if you recognize what they are photographs of?

A. Yes, they appear to be photographs that was taken while I was with you that time.

Q. On what ship?

A. On the Strathalbyn, as far as I can see. That one, this one here (indicating)—they appear to be the same pictures of the Strathalbyn after she was reloaded.

MR. HAYDEN: I now introduce them in evidence.

MR. BOGLE: I object to these photographs; no showing as to when they were made or how much cargo she had aboard.

Thereupon said photographs were marked "Libelant's Exhibits, Leach A. and B."

Q. Can you point out on Leach's Exhibit A. and Leach's Exhibit B., where the port light screen appears on this photograph?

A. Right in there (indicating on photograph).

Q. Just take a pen, if you will, and draw narrow lines from where the light screen—draw it down on the deck cargo from the light screen, if you will.

(Witness draws lines as requested.)

Q. Now, that is on Leach's Exhibit A. Now, will you also do the same on Leach's Exhibit B.

MR. BOGLE: This is all subject to my objection.

MR. HAYDEN: Yes.

(Witness draws as requested.)

MR. HAYDEN: Now, I hand you Claimant's Exhibit, Capers' C., a photograph, and ask you if the stanchions on the Strathalbyn were positioned as they are shown in that photograph at the time you loaded her before the collision?

A. No, certainly they are not in that position.

Q. What is the difference?

A. The difference is that these seem to be out on top a whole lot more than they were at the time she was loaded by me, when she had the collision.

Q. I hand you Claimant's Capers Exhibit E., and ask you if that photograph shows the way the stanchions were arranged on the Strathalbyn when you fixed the cargo on her prior to the collision?

A. No, it does not.

Q. What is the difference?

A. The difference is these were further outboard on top.

Q. What do you mean by "these"?

A. These stanchions here.

Q. Further outboard?

A. Further outboard on top, yes.

CROSS EXAMINATION.

(BY MR. BOGLE.)

Q. What position do you occupy with the American Trading Company, if any?

A. Why, foreman sometimes.

Q. You were in loading the Strathalbyn prior to the collision, were you? A. I was, yes.

Q. Mr. Waadne, do you remember in detail now the way that forward deck load was loaded on the Strathalbyn prior to the collision?

A. I would not say I remember all the details, no.

Q. Did you take particular note of whether or not those stanchions were outboard or inboard on a vertical line?

A. I took particular notice of that because I always put them inboard. I know I put them that way that time.

Q. Did you put them inboard with reference to the light on the lower bridge?

A. No, what I mean inboard, I mean inboard on a perpendicular line.

Q. How did you do that, Mr. Waadne?

A. How do I do it? Well, I do it; when the men raise the stanchion up I stand, say, on the forward deck,—I stand on the forward part of the stanchion.

Q. At the time of loading the Strathalbyn, do you remember of doing this? A. I do, yes, sir.

Q. Just tell what you did, not what you usually do, what you did this time?

A. I stood on the forward part of the stanchion, looked on the outside of it against the superstructure of the vessel.

Q. You were standing viewing along side the rail?

A. Yes, sir.

Q. You tried to get that stanchion so that it followed the line of the ship?

A. I tried to get it so it would lean in, make it stronger.

Q. The vessel's lines as she comes in on the superstructure?

A. Well, I don't remember particularly whether the superstructure comes in on the Strathalbyn or not; some comes in and some comes pretty nearly straight up.

Q. Did you sight along the stanchion to get it on a line with the super-structure?

A. I take notice how the superstructure is built, whether that is perpendicular on the vessel or whether it runs on a line of the ship. Then, if it runs with a line of the ship, I just give it a little more turned in than the

superstructure is out. If the superstructure seems to be without perpendicular, then I give it considerable more lean in according to the superstructure.

Q. That is your usual way of loading a ship?

A. That is the usual way of putting up stanchions, yes.

Q. I want to get at the way you loaded the Strathalbyn; do you remember that now?

A. I remember I leaned them to me—leaned them inboard on top.

Q. You have loaded a good many vessels since that time? A. Quite a few.

Q. Do you remember particularly how you loaded the Strathalbyn independent of your usual method of loading the ships?

A. I remember how I put up the stanchions.

Q. You remember on the Strathalbyn how you put up the stanchions? A. I do.

Q. That is what we want to get. How did you put up those stanchions?

A. When I put up the first stanchion, I stood on the fore part of it, stood on the outside of the stanchion against the superstructure of the vessel, and gave it a good turn in.

Q. How much did you turn it in?

A. Probably a foot on the length of the stanchion, 12 inches.

Q. 12 inches. Do you mean by that you turned it 12 inches from a perpendicular line inboard?

A. Yes, sir.

Q. And then you used that stanchion in putting up the others?

A. It might be more than that, I didn't measure.

Q. Would it be less?

A. I don't think it was any less.

Q. But do you remember, now, Mr. Waadne, just how much it was?

A. I am not clear within a couple of inches either way.

Q. Did you put it in with reference to the lower bridge, or did you just have the lower bridge in mind at that time?

A. I put it in with reference to the lower bridge, and the stanchions supporting the lower bridge; that is the way I generally go about it.

Q. You follow the line of those stanchions?

A. I did not follow the line, but I judged by those stanchions.

Q. Those are permanent stanchions on this ship?

A. The stanchions supporting the lower bridges are the permanent stanchions, yes, sir.

Q. Do I understand then that this stanchion is placed by you approximately one foot inboard of the vertical line?

A. Approximately that.

Q. Now, as you loaded your cargo, was that cargo loaded up against the line of those stanchions,—laid up against those stanchions?

A. Yes, the cargo followed the stanchions.

Q. Was there any tendency there to force those stanchions outboard, Mr. Waadne, as you completed your deck load?

A. There might be a tendency if the stanchions are not leaned inboard; that is the reason I always lean them inboard, so they have more strength. If you put the stanchions up perpendicular, then if the vessel gets a list, they are liable to bend over outboard some.

Q. What I mean by putting deck cargo on the vessel, does that have a tendency to force the stanchions out?

A. Not with a vessel laying there on an even keel.

Q. This vessel was not laying on an even keel?

A. Not after you get up on the deck there is.

Q. Did you take any particular observation during the time of the loading of the Strathalbyn, up to and including the time the loading was completed, prior to the collision, to ascertain whether this line of stanchions were inboard or outboard?

A. I don't remember taking any particular notice that there was any little cant from strain of the cargo.

Q. You did not take any particular notice?

A. No, I did not. If it had been much I would have noticed it, I know.

Q. Now, when the vessel returned after the collision, you say her cargo was in practically the same condition as it was when she went out?

A. Appeared to be so, yes, sir.

Q. Do you remember the size, the average size, of the timbers on the forward deck load?

A. Average size?

Q. Average; were they large or small?

A. Well, that is a pretty hard thing to remember two years ago. I know there were some long timbers.

Q. That is not any harder to remember than the location of those stanchions, is it, Mr. Waadne?

A. It is that, yes.

Q. It is harder to remember?

A. Yes. When I say I remember the lumber, why, I just make a guess at the average Australian cargo, that would be about the size of it.

Q. Do you know how much lumber you put on the forward deck prior to the collision?

A. You mean the amount in feet?

Q. Yes. A. No, I don't.

Q. You loaded her after the collision when she went out, after the repairs were made? A. No.

Q. You had nothing to do with that?

A. No, the stevedores done that.

Q. They loaded her in practically the same way you had prior to the collision?

A. Practically the same way, yes.

Q. The stanchions were standing practically the same way?

A. Practically, little more out on one side, on the forward deck.

Q. Some of the stanchions on the port side had fallen down?

A. Seemed to be out further than the rest of them.

Q. Do those stanchions get misplaced very often during the course of loading?

A. Sometimes one stanchion, in heaving in the breast of the hatch, that would be knocked down and had to be replaced again.

Q. At the request of Mr. Hayden, you paid more

particular attention to the position of those stanchions after,—subsequent to the collision?

A. Yes, sir, I did, in order to compare them with the way they were before.

Q. You did not pay very close attention to making any minute examination before the collision?

A. That was so shortly before I had it in my mind at that time how they were put up.

Q. Do you remember talking with me about this once, don't you, Mr. Waadne?

A. I think you were up to the house, once, wasn't you?

Q. Yes. Do you remember my asking the questions as to whether or not the stanchions were upright or outboard?

A. I don't remember all the questions you asked me at that time.

Q. Do you remember my asking you that question?

A. No, I don't remember now what questions you did ask me.

Q. Do you remember telling me you did not remember whether—whether it was vertical or exactly how it was?

A. I don't remember what I told you at that time now. If I had known I would have answered just the same anyway.

Q. That you did not remember?

A. I don't remember, I was not going to stand on oath. I was not on oath at that time. I was not on the stand or under oath at that time. I don't think I gave you any information of any kind to speak of at that time.

Q. With the exception of that one thing is all that you remember?

A. Well—I don't remember what I answered you at all or your questions at that time.

Q. You previously to that time talked to Mr. Hayden?

A. I don't know whether it was previously or afterwards, I don't remember.

Q. That was shortly after the collision, wasn't it?

A. When you was up to my place?

Q. Yes.

A. I don't remember what time it was; whether it was previously, afterwards, or two or three months afterwards, I don't remember.

Q. It was within two or three months, wasn't it?

A. I don't remember, I am sure it might be six months after for all of my saying now, I don't remember now.

Q. Were you present when those photographs, Libellant's Exhibit Leach A. and B. were taken?

A. I was, yes, sir.

Q. Who took those photographs?

A. Mr. Hayden took them as far as—at least, they appear to be photographs taken from the same position taken when I was over there with him.

Q. What was the condition of the load at the time the photographs were taken?

A. She was finished lashing with all on.

Q. Lashings were all on, were they?

A. They were on the forward deck; I don't remember the after deck. I think they were putting them on the after deck at the time.

Q. Referring to Libellant's Exhibit Leach B., this ink line that you have drawn shows what?

A. It shows where the light screen shows, from the forward part of the deck.

Q. What portion of the light screen is that, Mr. Waadne? A. That is the——

Q. At the forward or after end of that screen?

A. I think that is the forward block.

Q. You think that is the forward block?

A. The edge of the forward block.

Q. Can you tell from this photograph whether it is the edge of the forward block or not?

A. Well, I don't know, it is pretty hard to tell from the photograph now.

Q. Looking at this photograph between the first stanchion and the second stanchion forward, is there a place between the outside of that light screen and the second stanchion where you can see in the clear?

A. Well, you can see the after block of the light screen through part of it.

Q. Then, is that the after block of the light screen where you have your ink line drawn to?

A. That appears to be in a ways from the outer edge of the after block, apparently.

Q. You can see a clear space between this second stanchion and the outside edge of that, can't you?

A. Yes, it appears that way, yes.

Q. Then, is that the after block of the light screen?

A. Apparently.

Q. That is, where you got your ink line drawn?

A. On this one here (indicating); here is the forward block on the inside of that stanchion.

Q. Just draw a line to the forward block on the inside of that stanchion. Mark the first with "A" and the second with "B."

MR. HAYDEN: Draw the lines going away from each other some.

MR. BOGLE: Make a "B" at the end of that.

(Witness draws as requested.)

Q. Now, make an "A" at the other one.

(Witness draws as requested.)

Q. Now, where this line "A" runs to, in your opinion, what does that show?

A. It shows in the face of the—it will show right in the light screen.

Q. Is that the after end of the light screen?

A. It will show inside—it will show right against the after end of the light screen outside of the forward block.

Q. "B" shows the forward block of the light screen?

A. Apparently, yes, sir.

Q. Do you know where that photograph was taken from, Mr. Waadne,—what position?

A. That photograph was taken from the forecandle ahead, by the looks of it.

Q. Midships? A. No, on the port side.

Q. On the port side? A. It looks to me.

Q. What is this rail here—forecandle?

A. That is the forecandle rail, yes, sir.

Q. What is the opening on the left-hand side of the picture, is that where the stairs are?

A. There is an opening on that, on either side.

Q. Opening on either side?

A. It is as far on one side as on the other; opening from there going down on either side from the fore-castle head.

Q. You think that photograph was taken considerably over on the port side?

A. It was taken somewhat on the port side, anyway, yes, must be.

Q. What is this showing on the other end of the bridge, that little spot there (indicating on photograph)?

A. Down on the corner, down there (indicating)?

Q. No, right at the end of the bridge.

A. That is a little screen on that side, apparently.

Q. Is that at the forward end of the starboard a light screen? A. It seems that way, yes.

Q. Mark that with a "C," put a "C" on there.

(Witness does so.)

Q. Now, referring to Libellant's Exhibit, Leach A., does that line run—is the point showing there forward or after end of the light screen?

A. That is the forward end of the light screen.

Q. That is the ink line?

A. Ink line right on the fore part of the block—the block on the fore part of the light screen.

Q. Do you know, Mr. Waadne, whether the Strathalbyn at the time these pictures taken, had the same amount of forward deck cargo as she had when fully loaded prior to the collision?

A. Well, practically the same, I would not say within a few feet, but I understand that is just about the same cargo went on her as in the first place.

Q. Do you know whether she had the same amount of cargo both times?

A. I don't know that she had just the same amount.

Q. How much did those stanchions come inboard after she was loaded the second time, subsequent to the

collision, as shown on those two exhibits? How much did the stanchions come inboard from the vertical line?

A. I don't know, I didn't measure them; I should think about 12 inches.

Q. Then, your comparison is merely from observation, and not from any accurate measurements?

A. Yes, I would have to have a survey and measures—the vessel had four or five degrees list, from appearance.

Q. That is your estimate?

A. That is my estimate from my practical experience.

Q. Did you load the forward deck cargo any different from the ordinary stevedore foreman?

A. No, I don't think I did.

Q. They all place those stanchions about the same?

A. That is according to each individual's way of doing it, how to put the stanchions up.

Q. This particular examination that you made after the repairs were made, was at the request of Mr. Hayden, was it? A. It was, yes, sir.

Q. Did he tell you for what purpose that was to be had and why he wanted you to make that examination?

A. As far as I remember, he asked me to come along and take a trip over to the Strathalbyn; she was loaded again, and take a look and see what she looked like this time.

Q. That was all, was it?

A. He says, "I am going to take some photographs and I want you to see how I take them." I remember he had to take photographs and he wanted me to see how he was taking them.

Q. Did he only take these two photographs?

A. I don't remember how many he did take.

Q. This photograph, Libellant's Exhibit Leach A., could you tell where that was taken from; where the camera was placed? Do you remember of seeing that photograph taken?

A. I remember seeing him taking photographs from three or four different positions aboard the ship. This

one is apparently taken from about midships on the forward deck load, just about the forecastle head.

Q. Mr. Waadne, where were you standing when you could see the light screens through the stanchions on the port side?

A. I was standing well forward on the port side.

Q. How far from the rail—from the stanchions, rather? A. Maybe ten or twelve feet.

Q. Ten or twelve feet inboard? A. Yes.

Q. How far forward from the light screen itself?

A. I seen it from the forecastle head once; on top of the deck load, also.

Q. Standing on the forecastle head?

A. On the fore part of the deck load.

Q. Standing on the forecastle head 10 or 12 feet—

A. 10 or 12 feet inboard from the line of the stanchions on the forward deck.

Q. Now, you could see part of the light screen through what—between what stanchions?

A. I would not say now just which stanchion it was, it must have been the forward stanchion from the forward deck, I should judge. I remember seeing—remember seeing the screen, I would not swear to which stanchion I seen them now.

Q. Could you tell whether it was between the first and second stanchions?

A. I am not positive; I think it was.

Q. Between the first and second; that is, when I say the first and second, I mean the first and second immediately forward of the bridge? A. Yes, sir.

Q. Do you think it was between those two stanchions?

A. I would not say now—I would not say now which one it was.

Q. Can you remember now whether it was between the first and second or second and third, or whether it was further between the stanchions, further forward?

A. No, I don't remember now.

Q. Do you remember what portion of the light screen you saw?

MR. HAYDEN: I think that has been gone into, making the figures and everything else.

MR. BOGLE: Between the stanchions.

MR. HAYDEN: I don't think it is material, but I think it has been gone over enough times for the record to be clear on it.

A. No, I would not say just which portion of the light screen I did see. I think, though, I could see all the light screens at the different times if I moved my position.

Q. Well, you might see all between the stanchions inside of the first stanchion. Could you see any of it inside the first stanchion? A. Some, yes.

Q. Is there any position from which you could see the entire light block on the forward end of the light screen inside of the first stanchion?

A. The entire light screen?

Q. The forward block of the light screen?

A. No, I don't think so, no.

Q. Would you say, Mr. Waadne, that when this cargo was completely loaded prior to the collision that the stanchions were all in practically the same angle?

A. Yes, sir.

Q. Practically the same line? A. Yes, sir.

(Witness excused.)

(Signature waived.)

(Filed May 28, 1914.)

DEPOSITION OF GEO. D. BEAUMONT.

Testimony of GEORGE D. BEAUMONT, a witness on behalf of Libelant, taken at Tacoma, Washington, March 27, 1914, before Raymond J. McMillan, U. S. Commissioner, under the order of the above named Court, and stipulations by Proctors of the respective parties, it being particularly stipulated that the testimony of the above named witness may be used without objection on account of the said witness not reading or signing his testimony, which signing and reading is particularly waived.

The Libelant appearing and being represented by Mr. W. H. Hayden, of Proctors for Libelant.

And the Respondent, Cross Libelant and Claimant appearing and being represented by Mr. Lawrence Bogle, of Proctors.

WHEREUPON, the following proceedings were had and done and testimony taken, to-wit:

GEORGE D. BEAUMONT, a witness produced on behalf of the Libelant, having been first duly sworn, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. Your name is what? A. George D. Beaumont.

Q. Mr. Beaumont, were you on the Flyer the night that the Strathalbyn and Virginian came into collision, on the 12th of January, 1912? A. I was.

Q. What was your business at that time?

A. I was putting in an oil plant for the Chicago, Milwaukee & St. Paul Railway Company, Tacoma.

Q. Where were you living at that time?

A. Tacoma.

Q. Who were you working for?

A. Chicago, Milwaukee & St. Paul Railroad.

Q. What is your business now?

A. Selling machinery.

Q. What companies have you worked for in the last two years selling machinery?

A. Fairbanks-Morse Co., and Contractors Equipment Co., Seattle.

Q. How long have you been in this part of the country? A. Since October, 1909.

Q. What were you doing before you came here?

A. I was working in Louisiana in the oil business and I was also in the custom service.

Q. Where were you in the customs service?

A. Port Morgan.

MR. BOGLE: I object to all this as being immaterial.

MR. HAYDEN: What were your duties in the custom service?

A. I was inspector of the boats in that port, seeing to it that they had their proper papers, proper equip-

ment, and that they complied with the rules and regulations of the department.

Q. Did the equipment have to include the lights as well as other things aboard the boat?

A. Most certainly.

Q. Now, then, you left Seattle on the seven o'clock Flyer? A. Seven o'clock.

Q. Where were you sitting on the Flyer when you got up somewhere in the vicinity of Pulley Point?

A. I was sitting on the seat that runs around the forward end of the cabin.

Q. Upon what side of the Flyer?

A. Left-hand side of the boat.

Q. Did you observe the Virginian as you were coming from Seattle? A. Yes, sir.

Q. Did you notice what the Flyer did in passing her at or about Pulley Point?

A. Well, the Flyer swung out in order to pass her and give her a wide berth.

Q. Swung out and passed here on what side?

A. Right-hand side.

Q. That is, passed the Virginian's right-hand side?

A. Virginian's right-hand side.

Q. Did you observe the Strathalbyn as the Flyer was approaching her?

A. I did, after we had got down—oh, after we passed the boat that was headed for Tacoma, after we passed her and got down a ways I saw another boat coming.

Q. Did that other boat subsequently turn out to be the Strathalbyn? A. It did.

Q. Now, did you hear the Flyer and Strathalbyn exchange passing signals? A. I did.

Q. With respect to the passing signals between the Strathalbyn and the Flyer, when did you observe the Strathalbyn?

A. Oh, probably four or five minutes before they whistled to each other.

Q. What did you observe on the Strathalbyn at that time?

A. Well, when we first noticed the Strathalbyn we

noticed the—there were two red lights on her left-hand side and a green light, and we knew one of them must be——

MR. BOGLE: Mr. Beaumont, in testifying to “we,” who do you mean, yourself? You only know what you saw. Now, you are testifying; just tell what you saw.

A. Well, I was just using that because there were several of us there.

Q. Well, just——

A. I saw the two red lights and the green light to the left and forward of the *Flyer*, that is, in front of us a little to the left; one of the red lights almost on a direct line with the *Flyer*, and the red and the green light a ways off to the left. This I knew to be a boat, the red and green light. Of course, I didn’t know at that time what boat it was, but I noticed—I knew it was a boat on account of the red and green light showing up.

MR. HAYDEN: Q. Did you see any other lights on the steamer at that time except the red and green light?

A. The forward masthead light,—white light.

Q. Did you observe those lights as they were approaching the *Flyer* until the whistle?

MR. BOGLE: Don’t lead this witness; just ask him what he saw.

MR. HAYDEN: Q. Well, go ahead, Mr. Beaumont, and tell what you saw, up to the time of the collision, if you saw the collision; tell it in your own way?

A. Well, I noticed this boat afterwards proved to be the *Strathalbyn* coming towards us and I noticed this red and green light. Of course, I was not looking at it continuously, but I noticed we were drawing closer together as I kept looking up at this approaching boat. When he blew—when the *Strathalbyn* blew one whistle, which was answered by the *Flyer*, the only light I could see then was the red light and the white masthead light. As this boat got down off our——

Q. Which boat do you mean?

A. I will call it the *Strathalbyn*; at that time I didn’t know what boat it was. But the *Strathalbyn* as

she got down to a point off our left-hand bow, she whistled again, one whistle. This I knew was for the boat we just passed, or for the Virginian. I looked around to see what course the Virginian was taking, and I noticed the Virginian's red and green lights. As the Strathalbyn passed us and got to our stern and off the left, she blew again, and still I could hear no answer. I looked again down where the Virginian was coming and I was wondering why she did not answer. I will explain here——

MR. BOGLE: Just tell what you saw, Mr. Beaumont; that is all we want.

MR. HAYDEN: Go ahead in your own way.

A. My reason for knowing these things was on account of my experience in the government service.

MR. BOGLE: I object to that.

MR. HAYDEN: Make any objection you have as to the materiality of it.

THE WITNESS: I am simply stating why I noticed them.

MR. BOGLE: The fact you noticed that is all that is necessary. I object to the witness going into any deductions as to the reasons why he continued to notice them.

MR. HAYDEN: Q. Go ahead and tell what you know?

A. My reason for knowing this myself was on account of the experience I had, and I remember at the time we had called men in——

MR. BOGLE: I object to that as immaterial and not proper upon this case.

MR. HAYDEN: Go ahead.

A. We had called men in several times on account of not answering whistle signals properly, and I noticed the Virginian did not answer this signal. Then when I looked down the green light—or the red light on the Virginian had disappeared and only the green light was in sight. The Strathalbyn then blew five whistles, and the next thing we heard was the crash.

Q. Did you notice the red and the green lights on the Strathalbyn when you looked back after the—upon

the whistling or about the time of the whistling from the Strathalbyn, which was after the Flyer and the Strathalbyn had exchanged their signals?

A. Yes, sir.

Q. Did you notice that light—see those lights on the Virginian at or about the time the Strathalbyn blew the second blast,—passing blast, to the Virginian?

A. When the Strathalbyn blew the second blast and I looked back, I only noticed the one light, the green light.

Q. About how far away from you would you say the Strathalbyn passed you, and on what side of the Flyer?

A. She was on the—to the left of the Flyer.

Q. And about how far away?

A. Oh, I should imagine about three-quarters of a mile.

Q. That is, the boats, when they were opposite each other were three-quarters of a mile apart?

A. That is pretty hard to say, from half to three-quarters of a mile; they were no ways close.

Q. About how far apart would you say they were when the Flyer and the Strathalbyn blew their passing whistles to each other; that is, I mean the distance that the Strathalbyn was away from the Flyer?

A. Oh, pretty close to a mile apart.

Q. About how far was the Flyer from the Strathalbyn and the Virginian at the time the Strathalbyn and the Virginian collided?

A. How far away was the Flyer?

Q. Yes.

A. Oh, I imagine they were pretty close to a mile away—that the Flyer was pretty close to a mile away from the two boats when they hit.

Q. As the Strathalbyn was approaching the Flyer, how did the lights on the Strathalbyn appear as to their—appear to be burning?

A. Well, they were good bright lights; I would say they were electric lights.

Q. Did those lights flare up and down, or did they burn steadily? A. No, sir, very steadily.

Q. Did you have any difficulty in determining that they were ship's lights? A. Not at all.

Q. What did the Flyer do after the two vessels came together?

A. She swung around in a big circle and went to where the collision had taken place.

Q. Which way did she swing? A. To the left.

Q. Did you observe any lights on the Strathalbyn as the Flyer was approaching her on that swing?

A. I saw her one side light and the—and her mast-head light.

Q. What side light did you see?

A. The one on the right-hand side, the green light, I understood, of the Strathalbyn.

Q. How did that light appear to be burning?

A. Just like the rest of them, bright, steady.

Q. What did the Flyer do when she came up to the Strathalbyn?

A. She just pulled up in there, and the captain called to the Strathalbyn,—I forget his exact words,—but he wanted to know if they needed assistance, needed any help.

Q. What was the answer, if you remember?

A. Why, something about the captain did not know whether he did or not, whoever called back didn't know whether they needed any help or not, hadn't time yet to find out.

Q. Where did the Flyer go after this conversation with the Strathalbyn?

A. Swung around to the—went around to the stern of the Strathalbyn and came up along side the Virginian, the other boat.

Q. Did they have any conversation with the Virginian?

A. About the same—the captain of the Flyer called to the Virginian to see if they needed any help.

Q. Then after calling to the Virginian, what did the Flyer do?

A. Why, went back to the Strathalbyn.

Q. Then, what did she do, when she got back to the Strathalbyn?

A. Well, there was considerable talking back and forth there, and finally we swung around and came on to Tacoma; found out there was no immediate assistance needed.

Q. After you swung around coming to Tacoma, did you pay any attention to the lights on the Strathalbyn?

A. No, I did not take any particular pains to see what lights were burning, there had been no changes, they were all about the same.

Q. After the Strathalbyn had passed the Flyer and had blown the second whistle to the Virginian, did you make any conclusion as to the navigation of either or both boats?

MR. BOGLE: I object to that; he has not qualified as a navigating expert; it is a conclusion by him, and has no bearing on this case.

A. I did, when I looked back and saw what looked to me like the Virginian swinging across the course of the Strathalbyn, I made the remark that the pilot evidently was lost.

MR. BOGLE: I object to that as immaterial.

A. I am speaking of the remark I made.

MR. BOGLE: I object to that as being incompetent, irrelevant and immaterial.

MR. HAYDEN: What remark did you make?

A. That the pilot evidently was lost or drunk.

Q. The pilot on what boat?

A. The pilot on the boat that was headed the same way we were, to Tacoma.

Q. As you approached the Strathalbyn did you see anything about her lights that created any suspicion in your mind that they were not all right? A. No, sir.

CROSS-EXAMINATION.

(BY MR. BOGLE.)

Q. How long were you in the custom service, Mr. Beaumont? A. About four years.

Q. How long ago was that?

A. I left the custom service in 1907.

Q. Where were you stationed in the custom service? A. Morgan City, Louisiana.

Q. Morgan City, Louisiana? A. Yes, sir.

Q. That is a seaport, is it? A. Yes, sir.

Q. What were your duties in the custom service?

A. I was an inspector; we inspected all boats that came in there, saw to it that the boats that made that port, or our home ports, complied with the rules and regulations as to equipment, papers, licenses.

Q. Was it a part of your duties to examine and ascertain whether the lights were properly fixed?

A. Certainly, being equipment.

Q. Did you as such inspector give papers or anything to vessels coming in there to the effect that after such examination that their lights were properly fixed?

A. No, sir.

Q. If you found the lights were not properly fixed, what did you do?

A. Well, it was very seldom we found a boat whose lights were not properly fixed. In case we did, we would just call it to their mind that they would have to use what was right; that they complied to all the rules regarding equipment, life preservers, life rafts and fire apparatus.

Q. It was a part of your duties to see that the lights were right and to pass upon them?

A. No more to see that the lights were right than any other part of the equipment which applied to all equipment in general.

Q. It was a part of your duties? A. Yes, sir.

Q. If the lights were not properly fixed you condemned them, would you?

A. Called their attention to the fact that they were not carrying proper lights, or that their lights could not be seen. Sometimes we got a report of a boat carrying lights that were dim, that could not be seen, and that boat would be cautioned.

Q. What remedy would you have if the lights were not properly fixed?

A. Tie up a boat if it did not have lights properly fixed.

Q. That was within your duties, was it?

A. We were permitted to do that. Sometimes we would tie up a boat if it did not have the proper number of life preservers and if it did not have proper papers.

Q. You were engaged four years at Morgan City?

A. Yes, sir.

Q. Why did you quit the custom service?

A. Wasn't enough money in it; I could make more money in other business.

Q. You quit voluntarily, did you?

A. Yes, resigned.

Q. Have you had any experience in shipping?

A. Yes, sir.

Q. Prior to that time? A. Yes, sir.

Q. What has been your experience prior to going into the custom service?

A. Had charge of a line of boats that was doing towing business for us, the oil company I was connected with.

Q. Towing business?

A. Ocean going tugs and ocean going steamers that brought in oil to us.

Q. You were the general manager of that concern, were you?

A. I was, in that section, yes; not general manager, I was local manager.

Q. Have you had any particular experience in shipping? Have you ever been a seafaring man?

A. I had a license as an engineer.

Q. Have you had any navigating experience?

A. None, only around the port there.

Q. Ever had a master's or pilot's papers?

A. No, sir.

Q. Have you ever been connected with the American Trading Company? A. No, sir.

Q. Do you know their manager here, Mr. Macquarrie? A. I do not.

Q. Upon leaving Seattle, you were sitting at the forward end of the cabin, inside or outside?

A. Outside.

Q. Where does that bench run around, in front of the pilot house? A. Right around the front cabin.

Q. That is in front of the—where the pilot house — A. That is the pilot house is up overhead.

Q. On the port side? A. Left-hand side, yes.

Q. That is the port side, isn't it? A. Port side.

Q. Do you know what time you passed Pulley Point on that night?

A. Pulley Point? I don't know the different Points along there, between here and Seattle.

Q. When did you first see the Virginian?

A. As we came up along side her.

Q. Was that the first time you had seen her?

A. Yes, sir.

Q. Was your view obscured from the point directly ahead from where you were seated? A. How is that?

Q. Was your view obscured in any way from a point ahead of the Flyer? A. No, sir.

Q. You did not notice the Virginian prior to the time you were up along side her? A. No, sir.

Q. Could not see her stern light burning?

A. Did not take any notice of that.

Q. When did you first see the light on Pulley Point, Pulley Point being the Point about where you passed the Virginian?

A. I did not notice the light on Pulley Point.

Q. At the time you first noticed the Virginian, was the Flyer passing across the Virginian astern, or was she along side of her?

A. Well, I could show that better with a pencil. Well, I can show it right here (illustrating with hands on table). We were coming, for instance, in this direction, and the Virginian seemed to be kind of pointed that way, towards us. We were not running parallel, we were not running just exactly along side each other.

Q. I did not quite get the idea?

A. Your question was about our passing her astern; we did not pass her astern.

Q. Did you notice a Point about where you passed the Virginian; did you notice any point in there (indicating)?

A. No, I did not take particular notice that night.

Q. I wish you would show me, Mr. Beaumont, about how you passed the Virginian, taking this paper, and that this is the general northerly course towards Seattle, the opposite end is the southerly course towards Tacoma.

A. Well, we were coming along (drawing) like this, the Flyer and the—we were over here further (indicating on drawing).

Q. You can just locate that by a line.

A. Like we were coming here (indicating), and the Virginian seemed to be ahead in this direction (indicating).

Q. Was that at the time you were passing her?

A. That is when we passed her.

Q. What course did the—just mark those two, the Virginian and the Flyer?

(Witness marks as requested.)

Q. What course did the Flyer take after passing the Virginian? Did she take on that same course?

A. As she passed the Virginian she kind of had swung to give the Virginian a wide berth,—she had kind of swung off to the right, to her right.

Q. Well, then, is this arrow here which you have marked the Flyer, her position as she passed the Virginian, is that, off to the right?

A. Well, yes, but she had swung off to the right and come around this way, and swung right back in again.

Q. I want her position in passing the Virginian and after she passed the Virginian?

A. The Flyer was coming along, and as she went by the Virginian (drawing course of vessel) and kept ahead right across.

Q. Mark the Flyer there.

(Witness marks Flyer.)

Q. Now, how far did the Flyer pass off from the Virginian—how far off?

A. Oh, I imagine from a quarter to half a mile, it is pretty hard to tell at night what the positions were.

Q. Had the Flyer passed the Virginian at the time you saw these three lights ahead, two red and one green?

A. I did not notice those lights until we had got on around past the Virginian.

Q. How far past the Virginian?

A. Probably half to three-quarters of a mile.

Q. Half to three-quarters of a mile? A. Yes, sir.

Q. About how many minutes, do you know?

A. Oh, it would be three or four minutes.

Q. Three or four minutes after you passed the Virginian? A. Yes, sir.

Q. Then, you were on this course which you have marked here with the dotted line?

(No answer.)

Q. This identification, the arrow and dark line show the position of the two vessels at the time of passing, and shortly after they had passed? A. Yes, sir.

Q. And the break in the dotted line shows the change in curve of the Flyer upon passing the Virginian—this break that commences where I put an "X"?

A. I could not tell exactly; she swung out.

Q. She swung out to the right?

A. Yes, sir, she swung out to the right.

Q. It is your opinion that after she swung out to the right and cleared the Virginian she straightened back on her same course again? A. Yes, sir.

Q. Was that prior to the time she had whistled to the Strathalbyn when she straightened to continue on her course? A. Yes, sir.

Q. She continued on that course, did she?

A. Till after we passed the Strathalbyn, yes.

Q. Until after you had passed the Strathalbyn. Then, on that course, as I understand your testimony?

A. Yes, sir.

Q. One bright red light was directly ahead of you?

A. Yes, sir.

Q. That would be at a position directly ahead of this dotted line with an arrow pointed at the head of it?

A. Yes, the red light would be a little bit to the left of the course we were taking. For instance, we were going this way (indicating on drawing), and all lights were a little bit to the left. I was looking straight ahead from the port side of the Flyer and could see all three of those lights.

Q. All three of those lights? A. Yes, sir.

Q. Did you think that one of them was a light upon a point of land? A. I know that one of them was.

Q. Which light was that?

A. The red light that was by itself.

Q. Was that the one most directly ahead of you?

A. That was the one. There was a light between the red and green light and the Flyer.

Q. What was that? A. That was the point light.

Q. How was that point——

A. The point light and the red and green light.

MR. HAYDEN: Right on that point write "Red and green light."

MR. BOGLE: Just mark that—that is red light?

A. That is red light.

MR. HAYDEN: This is what is referred to as the "point light" (indicating on paper)?

A. That is the point light.

MR. HAYDEN: Mark it "Point light."

(Witness marks as requested.)

Q. And the other lights you marked "Red and green"?

A. The red and green were moving, and the red light was stationary.

MR. BOGLE: Q. Now, this red light which you picked up, the point light was almost directly ahead and slightly on your port bow, was it?

A. Yes, almost directly ahead.

Q. You are not familiar with the points and the lights between here and Seattle? A. No, sir.

Q. Between here and Seattle? A. Not now.

Q. How did you happen to distinguish that as a point on land?

A. Well, it was a stationary light.

Q. A stationary light? A. Yes, stationary light.

Q. You could see those other lights moving?

A. They were moving, coming towards us.

Q. How far were those other two lights on your port bow? A. How far?

Q. How many degrees or points were they on your port bow, the red and green?

A. As I first saw them they were just a little bit to the port,—port side.

Q. Then, they were almost in line with this stationary red light?

A. They were a little to the left of that; the stationary light was between these lights and the Flyer.

Q. But as you were looking ahead, how much were

those two lights off of your port bow? Do you know the different points on the compass, I mean the degrees and points? A. No.

Q. What would you say the angle would be between the course of the Flyer——

A. When I first saw these?

Q. When you first saw those lights?

A. Well, here is the (drawing); that is our course.

Q. "A" to "B" is a continuation of the course of the Flyer? A. Yes, sir.

Q. All right.

A. They were just about as I have them placed here when I first saw them.

Q. They were just about at the angle indicated here by the mark "Y," were they? A. Just about.

Q. Did you see any other steamers in that vicinity, Mr. Beaumont, at that time? A. When we were here?

Q. Yes, after you passed the Virginian up to the time of the collision, did you see any other steamers,—any other lights ahead of you? A. No, sir.

Q. Now, you had passed the Virginian some four or five minutes, did you say, at the time you saw these lights?

A. Something,—probably four or five minutes.

Q. How far did you say you were ahead of the Virginian at that time?

A. I imagine half or three-quarters of a mile.

Q. And how far would you judge those lights were ahead of you when you first saw them?

A. Oh, that is pretty hard to say; it is so hard to tell distances at night especially, but from the time it took us to come together I should think we were a mile and a half, pretty near, I would say that.

Q. How long did it take you to come together?

A. From the time we first saw the red land lights?

Q. Yes, sir.

A. We passed probably six or seven minutes, five or six or seven minutes, somewhere along there, six or seven minutes I would say.

Q. How long did you watch those red and green lights which you took to be on the steamer?

A. Well, I did not watch them, I just noticed that

they were—there was another boat coming and in—as I kept looking up I noticed that she was still headed towards us. The green light disappeared, but the red light still stayed.

Q. When did the green light disappear?

A. Shortly after I first saw them.

Q. Shortly after you saw the two lights the green light disappeared? A. Yes, sir.

Q. About how long after you first saw it?

A. That is pretty hard to say; I was not taking notes on it.

Q. About how long before you passed the Strathalbyn? A. Oh, I imagine four or five minutes.

Q. Did you watch that green light, pay any particular attention to it, after you first saw it?

A. No, sir. If I remember correctly, the second time I looked there was just the red light in sight.

Q. How far apart did you say the Flyer and the Strathalbyn passed?

A. Half or three-quarters of a mile, I would say.

Q. Did you notice the Strathalbyn changed her course after you saw the red and green lights, on what you took to be the Strathalbyn? A. No, sir.

Q. Do you think she changed her course any?

A. I could not say.

Q. Did you notice any variation in the bearing of either the red light or masthead light from the time you first picked them up? A. Not at all.

Q. They did not get any broader on your port bow?

A. No.

MR. HAYDEN: From what time do you mean?

MR. BOGLE: He says from the time he first picked them up,—first saw them.

MR. HAYDEN: Until what time?

MR. BOGLE: Any time, I asked him.

Q. What was the position, Mr. Beaumont, of the Flyer to the Strathalbyn at the time they exchanged whistles?

A. Why, the Strathalbyn was passing on our port,—port side.

MR. BOGLE: I want to introduce this in evidence. Thereupon, said paper was marked "Claimant's

Exhibit, Beaumont No. 1," and attached to this deposition.

Q. How far away was she ahead of you and on your port side when——

A. Oh, I should say about a quarter to a half, three-quarters of a mile, somewheres along there.

Q. Was this when the Flyer and Strathalbyn exchanged signals? A. When they exchanged signals.

Q. That was about four or five minutes after you first saw these lights, was it, at the time you could see her red and masthead light? A. Yes, sir.

Q. Did you see her head light as you passed along side her? A. Yes, sir.

Q. When did that red light shut out?

A. Not until after she had passed us.

Q. Didn't cut out until after she had passed?

A. No, sir.

Q. Could you see the masthead light after she had passed? A. No, sir.

Q. After she had passed your beam? A. No, sir.

Q. Could you see any lights on her after she had passed your beam, astern of you?

A. I could see the stern light.

Q. You could see the stern light?

A. Yes, sir, I could see the stern light.

Q. Now, where was the Strathalbyn at the time she gave her second whistle which you took to be to this approaching steamer? A. Right off of our port bow.

Q. How far ahead of you?

A. Oh—you mean how far would she be directly ahead?

Q. Yes. A. Oh, hardly—about a quarter of a mile.

Q. That is, a quarter of a mile on a point directly ahead and off your port bow?

A. Yes, sir,—well, she was—she was about half a mile off away from us, but what I saw was about—oh, it is pretty hard to tell, she was just off to our left, just about on that angle (indicating).

Q. An angle of about how much,—how many degrees would you say? A. Oh, darned if I know.

MR. HAYDEN: Maybe you could indicate it on this exhibit. Get up where your Flyer is.

A. I have the Flyer marked from "E," showing the Flyer up here (indicating on Claimant's Ex. Beaumont No. 1).

MR. HAYDEN: That is what I mean.

MR. BOGLE: Mark that "Flyer 2," to indicate the two positions.

MR. HAYDEN: Where she was when you saw the—— (interrupted.)

THE WITNESS: Just about in that position (indicating).

MR. HAYDEN: (continuing) when you saw the Robinson Point light and the red and green light referred to earlier in the testimony, with the lines indicated by "A" and "B" from "Flyer 2," to the Point light?

MR. BOGLE: Yes, that is where she was when you saw the two red and one green light ahead of you.

Q. The angle "Y-2" was the angle between the Flyer and the Strathalbyn at the time she gave her second whistle, which you took to be her first whistle to the approaching steamer? A. Yes, sir.

Q. At that time you looked back, Mr. Beaumont?

A. That is when I looked back.

Q. And you could see what on the Virginian?

A. The red and the green lights.

Q. Did you notice her masthead and range lights?

A. Didn't notice them.

Q. And she was how far astern of you then?

A. About—oh, I imagine about half or three-quarters of a mile.

Q. She was apparently on the same course she was on when you passed her?

A. Seemed to be, yes, sir.

Q. You are sure you looked back at that time?

A. That is what caused me to look back.

Q. Where was the Strathalbyn when she gave her third passing whistle? Did you pick up her second whistle to this approaching steamer? Was she astern of you? A. Yes, astern of us.

Q. How much time elapsed between those two whistles? A. Oh, probably a couple of minutes.

Q. At that time you looked back and could only see the green light on the——

A. I was still looking back; the red light disappeared.

Q. That was at the time of the second passing. Did you hear any further passing whistle blown by the Strathalbyn?

A. Any further passing whistles? No, sir.

Q. You only heard the two passing whistles to this other steamer? A. I heard the two passing whistles.

Q. That is all? A. That is all.

Q. And the next whistle you heard was what, Mr. Beaumont?

A. I heard five short blasts from the boat that had just passed us, the Strathalbyn.

Q. All of those blasts were from that one boat, were they; could you tell? A. Yes, sir.

Q. Did you hear any whistles at all from the Virginian? A. No, sir.

Q. Didn't hear her blow three whistles in response to those whistles from the Strathalbyn? A. No, sir.

Q. How long after this second whistle which the Strathalbyn blew this approaching steamer was it before you heard her blow those five blasts?

A. It was not over a minute or a minute and a half.

Q. Minute and a half? A. Minute and a half.

Q. And the two steamers were then about how far astern of you?

A. Oh, I should imagine when she blew her five blasts the Strathalbyn was——

Q. Did you look back then?

A. I was looking back all this time, from the time she blew her first passing whistle to the boat, the Virginian. I was watching the lights on the Virginian.

Q. You did not watch the Virginian's range and masthead light?

A. Noticed them when they swung around.

Q. You did notice them swing around, did you?

A. When they swung around.

Q. Prior to the collision? A. Yes, sir.

Q. When did you notice the Virginian's masthead and range lights swing around?

A. After the Strathalbyn had blown her second—no, between the first and second whistles she seemed to swing around, and after she had blown her second whistles she seemed to swing clear around.

Q. Clear around so that she was headed where?

A. Headed——

MR. HAYDEN: Draw on there and give an idea of it.

A. We were coming along this direction (indicating on Beaumont's Ex. No. 1). This is just my idea of it. Here is a red light and here is the green (indicating). Here are the two lights. She swung around and this light disappeared and only the green light showed and the two range lights.

Q. You say now that you noticed the two range lights?

A. When she swung around. You asked me if I had noticed them up to this time.

Q. All right, if that is your idea. Did you notice them when she swung around?

A. I noticed them when she swung around.

Q. When did she swing around?

A. About the time the Strathalbyn blew her second whistle,—passing whistle.

Q. That is the time you noticed the red light was shut out, isn't it? A. Yes, sir.

Q. You noticed the range lights at the same time?

A. They squared up opposite one another.

Q. You noticed that at the time of the Strathalbyn's second whistle? A. About at that time.

Q. Did they keep on swinging around?

A. No, they seemed to be right in that position.

Q. After they swung around, she seemed to continue on that course, did she? After her red light was shut out? A. Stayed right in that position.

Q. You didn't notice them swing any more, did you? A. No, sir.

Q. Could you tell how far they swung,—how far they were swinging?

A. Oh, no, I could not tell that now.

Q. How did they open up?

A. I did not even know she had swung, that was

my supposition that she had swung, because the green light disappeared and the red light was there and then two white lights swung into line.

Q. Did you look back and see they had changed positions? A. No, I saw they had changed positions.

Q. You are sure that was not until the Strathalbyn's second whistle? A. Yes, about that.

Q. Second whistle to the Virginian?

A. Virginian.

Q. That was how long before the collision?

A. Oh, probably two or three minutes.

Q. Two or three minutes. Now, she swung on to this curve. Indicate as near as you can the course she swung on it.

(Witness indicates on drawing, Claimant's Exhibit, Beaumont No. 1.)

Q. That is this dotted line? A. Yes, sir.

Q. She continued on that course, did she?

A. Swung into that course.

Q. As you watched her did they broaden out any, become more parallel?

A. No, stayed about the same.

Q. Now, just indicate on this drawing of yours where it appeared to you the collision took place?

A. Where it appeared to me the collision took place?

Q. Yes.

(Witness indicates by drawing dotted line.)

Q. Mark the point of collision?

A. There (indicating on drawing.)

Q. Write off there "Point of collision".

(Witness does as requested.)

Q. Ten, according to that, the collision took place almost at the point where she changed her course, didn't it? A. Pretty close to it.

Q. Did you watch the Strathalbyn after she had passed you?

A. No, I cannot say that I did, just casually, probably noticed—I was watching both of them, for that matter.

Q. Were you paying any more attention to the Virginian than you were to the Strathalbyn? A. Yes, sir.

Q. Was that because you could see her better?

A. No, more because of her movements.

Q. You did not watch the Strathalbyn at all then, did you?

A. I say, only casually; I was watching both boats.

Q. Did the Strathalbyn change her course any after she passed you, that you could see?

A. That is hard to say, I could only see her stern lights. You could tell that either boats were changing on account of the way their lights were moving; you could tell the Virginian changed her course on account of the red light disappearing and the green light showing and two range lights ranging up.

Q. You have had some seafaring experience, Mr. Beaumont, have you? A. Just as I have stated.

Q. What if the Flyer so changed her course and drew away from the Virginian at all times, wouldn't that make an apparent change in the Virginian's course? Wouldn't that make the bearing of her lights different?

A. If the Flyer had changed her course?

Q. If the Flyer was bearing away from the Virginian at all times?

A. Well, it depends on which way she was bearing away from her. If she was varying away from her straight ahead, the lights on the Virginian would remain the same.

Q. If she was bearing further to the right, and the Virginian was coming more direct, straight ahead course, and there was an angle between the two courses—

MR. HAYDEN: I object to that question on the ground that there is no testimony to support it.

A. I didn't quite get that. If the Flyer was pulling off to the right, you mean, would the lights on the Virginian change?

Q. If one vessel was going say in a straight northerly course and the other vessel going in the same direction but on a course further off to her right, and the vessel bearing off to the right has greater speed, wouldn't that make the bearing of the other vessel's lights change, varying from time to time? A. I presume it would.

Q. Now, you don't know whether the Flyer so

changed her course and the Virginian so changed her course, do you? It was just the apparent change in the lights was all, wasn't it?

A. We had already picked up the lights ahead on this point, these stationary lights, and we were keeping right in line with them, so we could not vary away to the right.

Q. If the Virginian was going more on a course down the Sound and passing further off the Point,—further off Point Robinson than you were headed for,—the relative bearing of your two courses would be changed at all times, wouldn't they?

A. No, they would not be changed; if we were diverging out like this, they would be.

Q. That is what I mean. If the two courses were diverging from each other?

A. Oh, if both were headed for the same point and making different lines, same course, the lights would not change.

Q. You mean if you were on parallel lines?

A. If on parallel lines.

Q. But if you were not on parallel lines?

A. If we were not I should think the lines would be changing.

Q. Mr. Beaumont, which vessel blew the first passing whistle, the Flyer or Strathalbyn?

A. The Strathalbyn.

Q. You are positive of that, are you?

A. I am pretty sure of it.

Q. This collision took place a little over two years ago, didn't it, in January, 1912? A. Yes, sir.

Q. Have you been residing in this vicinity ever since then? A. In Seattle.

Q. In Seattle. You think your recollection is as clear now as it was immediately after the collision, of all these facts?

A. The principal facts of it are something you could not forget five years from now.

Q. Just as clear five years from now?

A. Yes, anything happening like that would be just as clear five years from now.

Q. Did these lights appear at all times,—these lights you say appeared to be port side lights?

A. Yes, sir.

Q. Would you take them to be electric lights?

A. Yes, I would.

Q. You think that no navigator would have any trouble in making out those lights in seeing them?

A. I would not think so.

Q. You think you could see the port light and also the green light a mile and a quarter away?

A. I think it was about that distance I did see them.

Q. You saw no other steamer in that vicinity at all?

A. No, sir.

Q. Now, Mr. Beaumont, after the collision,—first, at the time of the collision, how far was the Flyer from this steady red light ahead of you?

A. The steady red light?

Q. That you took to be a light on land, — point light? A. I don't know how far we were from that.

Q. Did you notice it at that time? Did you notice the bearing of that light?

A. I did not pay much attention to that after the Strathalbyn had passed us; but after she first whistled for the Virginian, I was looking back all the time.

Q. You did not look forward? A. No, sir.

Q. Did the Flyer turn an apparently sharp turn to the left in order to go back to the collision?

A. No, she swung around.

Q. How wide an arch did she swing?

A. Oh, she swung around so that she came up on the starboard side of the Strathalbyn.

Q. Was she swinging up to the time she reached the Strathalbyn, or had she completed her swinging and straightened out on her course?

A. She seemed to make a big circle right up to the Strathalbyn.

Q. Well, what I mean is, had she completed that circle and straightened out on her course?

A. Well, she came around here and came up along side the Strathalbyn.

Q. You don't know how much of a circle she made, —how wide a circle? A. I could not say.

Q. How did the two vessels bear from the Flyer at the time of the collision, what angle off her stern?

A. Strathalbyn here—this is the Strathalbyn (indicating on drawing), and the Virginian seemed to be in this position (indicating), and we came up along side the Strathalbyn and around here along side of the Strathalbyn (indicating on drawing.)

Q. This line, dotted line E-F, then, is the course of the Flyer after the collision?

A. We swung around in that direction.

Q. Of course, the Flyer was further ahead than—

A. Yes, sir.

Q. What I want to get at is the bearing at the time of the collision,—bearing of the Flyer and the two vessels astern of you?

A. I thought you meant up there (indicating on drawing).

Q. Were they almost directly astern of you or were they to either side?

A. They were to the stern and off to our left a little bit.

Q. They were off—

A. Off our port side and to the stern.

Q. Well, now, was she very much off there? Were they well astern or well off?

A. Oh, they were pretty well astern, not so very far off. I was standing looking—if this is facing the stern of the Flyer (illustrating), I would be looking off at about the corner of that book-case.

Q. Would you take that to be an angle of about 15 or 20 degrees? A. Something like that.

Q. What lights could you see at that time plainly?

A. You mean when they hit?

Q. Yes.

A. That is hard to say, I was not paying much attention to the lights when they hit.

Q. You made this swing to the left on the Flyer and approached the Strathalbyn on her starboard side?

A. On her starboard side.

Q. How was she laying then with reference to the land? A. Why,—

MR. HAYDEN: Which one?

MR. BOGLE: Strathalbyn.

A. I could not say—I could not say. We came up and we were just watching the wreck and was not taking any particular note of direction.

Q. You came up to her—

A. On her starboard. We swung to the left and came up on her starboard side.

Q. Did you approach her from the stern or directly towards her starboard?

A. From—oh, I suppose we came up on an angle of probably 15 or 20 degrees.

Q. Approaching her from the stern?

A. Yes; made that swing around a little more, I could not say.

Q. How was the Virginian laying at that time with reference to the position of the Strathalbyn?

A. Well, the Virginian was lying kind of — her stern was headed away from the port side of the Strathalbyn. What I mean, the Strathalbyn was lying this way (indicating); the Virginian was kind of laying off this way (indicating).

Q. How were the two bows of the vessels lying with reference to each other?

A. Well, the Strathalbyn seemed to overlap the Virginian.

Q. Were they still lying towards each other?

A. Well, they were lying—this is the Strathalbyn and this is the Virginian (indicating with hands). They were in that position.

Q. Taking it with reference to this being Pulley Point—I do not mean as to distance but I mean as to direction—this being a general northerly direction, I do not mean exactly.

A. I got it right here now; this is the position they were in about (indicating on drawing).

Q. Over on the right-hand side of that, note the position of the two vessels at the time you came along. Put them down here and then you may mark them?

A. Here is the Strathalbyn here (indicating on drawing), and the Virginian seemed to be kind of in this position (witness indicating by drawing on Exhibit).

Q. Headed this way, were they (indicating on drawing)? A. Yes, sir.

Q. Was the Virginian's bow right on the Strathalbyn at that time?

A. We could not see as we came along side; we came up on this side of the Strathalbyn, this way (indicating on drawing).

MR. HAYDEN: Name them, "Strathalbyn" and "Virginian" so that we will know.

(Witness marks on drawing as requested.)

MR. HAYDEN: Let us mark that with the figure "P," to indicate that is the figure that indicates the—

MR. BOGLE: Put a circle around it.

MR. HAYDEN: With figure "P" their position when the Flyer came up, as you recollect it.

MR. BOGLE: Do you mean the two vessels were as close together as you have indicated them here? In other words, were they touching at the time you came along?

A. I could not say as to that. We came up on this side of the Strathalbyn (indicating on drawing).

Q. You do not know which direction the Strathalbyn was pointing at that time?

A. Yes, the Strathalbyn was pointing this way (indicating on drawing).

Q. Was she bound in the same direction she was at the time of the collision?

A. As near as I could say she was; she made that swing somewhat. We didn't pay much attention to direction at the time.

Q. Where was the Virginian at the time you left the Strathalbyn and went to the Virginian?

A. She was on this side (indicating on drawing).

Q. As close to the Strathalbyn as you have indicated there? A. When we got around to her?

Q. Yes.

A. No, I don't think she was. I think she had pulled back some. While navigating I know they both backed—the Strathalbyn had backed off before we started to come over to the Virginian.

Q. You think the Strathalbyn was still headed practically on her course towards the north?

A. Yes, I think she was, I could not say, though.

Q. Did you notice any point of land at that time to determine? A. No.

Q. And you do not mean to say that the two vessels were touching at the time you came up there, as indicated in this diagram of yours?

MR. HAYDEN: I think he has answered that three or four times.

MR. BOGLE: Let him answer again.

A. That they touched?

Q. Yes. A. I cannot say.

Q. You have indicated they were touching?

A. This is the position they were in; I could not tell whether they were touching or not.

Q. What was their relative position at the time you saw both vessels?

A. Just as I have indicated them out here.

Q. That close together, were they?

A. Just about that close together.

Q. Touching at the time you saw both vessels?

A. I would say so.

Q. How long was this after the collision?

A. How is that?

Q. How long was this after the collision?

A. Well, just as long as it took us to swing around and come up along side the Strathalbyn.

Q. Was it five minutes?

A. No, I don't think it was,—probably three or four minutes, maybe five minutes.

Q. At that time the Virginian was off from the Strathalbyn's port side, wasn't she?

A. From the Strathalbyn's port side.

Q. Did you notice any lights over the bow of the Virginian at the time you went along side of her?

A. When we came around?

Q. Yes.

A. No, I didn't pay much attention to that.

Q. How was the Strathalbyn headed at the time the Flyer left her and proceeded on her voyage to Tacoma? Was she still headed in that direction, or had she changed any?

A. The only change she made probably was to swing around.

Q. Had she or had she not swung around?

A. Oh, I could not say.

Q. Did you pay any particular attention to the Strathalbyn after you had—after the Flyer had left her and continued on her voyage to Tacoma.

A. No, sir.

Q. After going to the Virginian and returning to the Strathalbyn, did you return to her starboard side again?

A. How is that?

Q. After the collision you went up along side the Strathalbyn on her starboard side, didn't you?

A. Yes, sir.

Q. After speaking to the Strathalbyn you pulled ahead of her, didn't you? A. No, sir.

Q. Did you back around the stern?

A. We went around her.

Q. You backed off and went around her port side?

A. No, went to the Virginia.

Q. In going to the Virginian, did you cross her bow, the Strathalbyn?

A. No, sir, we backed off and went around and came around.

Q. Went up on the port side of the Strathalbyn?

A. We backed off and came around up to the starboard side of the Virginian.

Q. After coming up on the starboard side of the Strathalbyn, how did you maneuver in order to get to the Virginian? A. We went around the Virginian.

Q. And came up on the port side of the Strathalbyn?

A. We came up to the Virginian.

Q. That is on the port side?

A. We did not pull up on the port side.

Q. You backed up and approached the Virginian on her starboard? A. Yes, sir.

Q. After speaking to the Virginian you backed off again, did you? And did what?

A. Well, backed off, and I think we headed towards Tacoma, and as we went along side the Strathalbyn, or as she went over this way they exchanged some more

remarks, or somebody on the Strathalbyn said they were all right—I don't know just the exact wording or what was said.

Q. I was just trying to get your maneuvers?

A. I see.

Q. You backed off and started towards Tacoma, and then you were on the port side of the Strathalbyn, were you?

A. I don't know, it seems to me that we went back around on the Strathalbyn again.

Q. Now, during these maneuvers was the Strathalbyn moving or was she remaining stationary in the water?

A. I don't know whether she shut down her engines or not. She had them backing.

Q. Did you notice any change in her course from the time you came along side until you left her?

A. No, sir.

Q. Was she headed about the same way she was?

A. Yes, as far as I know.

Q. The Virginian, I understood you to say, was pulling off, backing? A. No, sir.

Q. She did not back off there?

A. We were all right there in a group.

Q. I say, while you were there did the Virginian change her course any? A. Not that I know of.

Q. Was she laying still in the water?

A. Apparently so.

Q. All the vessels were right up together?

A. They had backed away from each other.

Q. They did that after you came up?

A. When we got there they were backing away from each other.

Q. They were not right up together the way you have indicated there?

A. When we came up along side, as far as I could see, they were—they were close together; I could not say they were touching.

Q. Within a few feet of each other?

A. Something like that, yes, sir.

Q. They backed away while you were there, from each other? A. Yes, sir.

Q. Without either one changing their course very much, as I understand?

A. I was not paying much attention to their courses.

Q. They were both lying about the same direction when you left?

A. As far as I know, they were.

Q. The Flyer in making this swing, could you tell how much of a swing she made and how far she was off her original course when she completed her swing?

A. I could not say, I was watching the wreck, where the wreck had happened.

Q. When was it you made this remark about the pilot?

A. When he—about the time that the Strathalbyn blew her second whistle, then I noticed that the boat was swinging so her red light disappeared and the two range lights fell into line.

Q. Why did you make that remark?

A. Because her course was so erratic.

Q. You said that because you saw her lights apparently change?

A. Yes, she seemed to be swinging.

Q. That is, you saw her lights apparently change?

A. Well, I could not see there was any change in her course required, for the reason if she kept on her course—

Q. You say her—

MR. HAYDEN: Let him answer.

MR. BOGLE: Let him answer the question.

Q. You saw her lights apparently change, did you?

A. I said I could not see any need of a change in her course.

MR. BOGLE: I move to strike that as not responsive to the question. A. There was a question—

Q. I asked you if what you saw wasn't the apparent change in the bearing of her lights? That is what you said, isn't it?

A. That is not the question you asked me.

Q. Well, I ask you that question now.

A. What is that?

Q. What you saw was an apparent change in the position of the Virginian's lights, wasn't it?

A. Yes, saw her lights change. To get back, you asked me why I made that remark; that is your question.

Q. Yes, you answered that.

A. On account of the erratic course—on account of her erratic course.

Q. What was her erratic course?

A. Well, when the Strathalbyn blew for a passing whistle and I looked back, the Virginian was coming in a straight course, on a course that would have taken her by the Strathalbyn.

Q. Do you know that, Mr. Beaumont?

A. Certainly I do.

Q. How do you know that?

A. By the position of her lights.

Q. You knew exactly how the Strathalbyn was headed and where she was located?

A. Why, certainly, she just had passed us.

Q. She just had passed you? A. Yes, sir.

Q. And the Virginian at that time was headed towards you, was she?

A. Yes, sir; you could see both her red and green lights.

Q. And then she apparently changed her course, did she?

A. Apparently changed her course.

Q. Now, we are going back to the question: You say she apparently changed her course; you saw the bearing of her lights different?

A. Quite a little bit different.

Q. How much did she change her course?

A. She swung around until her red light disappeared and her two range lights fell into line.

Q. You mean opened up so you could see both of them? A. Yes, sir.

Q. Had you seen both of them prior to that time?

A. No, sir.

Q. You could only see one?

A. I did not notice either one of them.

Q. You did not notice either one of them until the time you saw her red light shut out? A. Yes, sir.

Q. Then you looked up and saw the range lights, didn't you?

A. I knew she was swinging by her range lights changing.

Q. How much did they change?

A. Oh, I could not say as to that, I don't want to say how much. They swung in line so that I would place her at about that angle (indicating with hands) from where we were watching her.

Q. You were still standing on the forward part of the Flyer?

A. We had stepped to the rail then; we were all at the rail.

Q. You do not know what course the Flyer was steering, at that time, do you?

A. No, I do not know.

Q. You don't know whether she was bearing away from those vessels or not, to the right?

A. I could not say she was bearing away; we was headed for the red light on the point.

Q. The last time you looked forward?

A. Yes, sir.

Q. You just testified after the Strathalbyn passed you you paid no further attention to the red light?

A. No, sir.

Q. You paid no attention to what course the Flyer was steered? A. No, sir.

Q. You do not know whether she was bearing away to the right, or not? A. No.

RE-DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. Mr. Beaumont, do you think any possible change in the course of the Flyer could have made a corresponding change of position in the lights at the time you saw the lights on the Virginian change their position?

A. I do not.

MR. BOGLE: Q. You had not seen those range lights up to the time you noticed they were opening?

A. Had not noticed them.

Q. How far were they opened when you first saw them?

A. Oh, just a little bit. They were—that is easier

to show than to try to describe. I don't know how you mean by "how far."

Q. What was the appearance of them?

A. Well, the two—for instance, here—here is the white light, range light, and here is the other one (indicating on drawing). This one seems to be coming around until they were in about that position (indicating).

Q. I wish you would just indicate on here, to get it clear, the position of the Virginian and the position of the Flyer at the time you looked back and saw both the Virginian's side lights?

(Witness indicates on drawing, as requested.)

MR. HAYDEN: Do you intend the Virginian to be headed towards the Flyer?

A. No, this should be over further.

MR. HAYDEN: Do you want it to head directly for the Flyer? A. No, sir.

MR. BOGLE: Just a minute; let the witness draw that; he is testifying.

(Witness continues to draw.)

MR. BOGLE: Q. You think that is nearer correct than the other, do you? A. Headed about like that.

Q. You were standing on the Flyer and you could see both of her lights? A. Saw both of her lights.

Q. When was that with reference to the point of time and position?

A. That was when the Strathalbyn blew the passing whistle for the Virginian.

Q. The Strathalbyn at that time was—

A. Was off here about (indicating).

Q. She was ahead?

A. No, that is the first whistle; second whistle, she was just passing the stern of the Flyer.

Q. Just mark that the "Strathalbyn".

(Witness marks "Strathalbyn".)

MR. HAYDEN: Mark the other one the "Virginian".

MR. BOGLE: Q. That was the positions of the three vessels at the time you looked back and saw the red and green light on the Virginian. I also understand you

to say that was the time the Strathalbyn gave her second passing whistle to the Virginian? A. Yes, sir.

Q. When did the Virginian's lights apparently change?

A. About the time that the second passing whistle was blown.

Q. They changed at that time, did they?

A. About that time.

Q. Now, you wanted to indicate on there what the change was. Just go ahead and do that.

A. This light disappeared. The red light disappeared. How will I indicate that?

Q. Continue your course forward and show how she apparently changed?

(Witness indicates on drawing.)

Q. The Strathalbyn was in approximately the same position?

A. Of course; still she was changing,—the Strathalbyn was probably going ahead.

Q. She was a little bit closer to her at this time?

A. About the time that the Virginian was swinging around, the Strathalbyn then blew her five short blasts.

Q. As her lights were changing?

A. Well, just about the time she swung around; that is when I made my remark.

Q. Those five blasts were blown at about the time that you thought the Virginian changed her course, was it?

A. After she had changed her course—about the time she changed her course.

Q. Just about the same time?

A. She had probably made her change.

Q. Had she made her change?

A. You are getting down too close. It was all—this was all happening there right at one time; now, to be positive she was changing her course when the Strathalbyn blew her five short blasts, I would not swear to that.

Q. Was it within a few seconds, one thing or the other?

A. It was within a short time of the time she blew her five short blasts.

Q. Was it before or after she blew the short blasts?

A. I would say the Virginian changed her course when the five blasts were whistled.

Q. How long was it after you observed the change until the Strathalbyn blew her five short whistles?

A. It was all right together.

Q. The collision occurred within a minute and a half, you say. A. Somewheres around that.

MR. BOGLE: I also offer this in evidence.

Thereupon said drawing was marked "Claimant's Exhibit, Beaumont No. 2," and attached to this deposition.

Q. Mark this "Virginian 2".

(Witness marks as requested.)

Q. The Strathalbyn was on this same course?

A. Yes, sir.

Q. Where was she at the time the Virginian made this apparent change?

A. Oh, I could not say; we were going from them all the time.

MR. HAYDEN: Q. You have not drawn these pictures on here with any idea of exact proportion, have you,—size of the vessels?

A. I should say not.

MR. BOGLE: Q. Is that as near to exact proportion as you can get?

A. That is the position I would say they were in.

MR. BOGLE: I want your best and most accurate recollection and drawing of that.

A. I was on the Flyer, I was not on the Strathalbyn or the Virginian—I was on the Flyer and as near as I can tell from watching them, and watching the lights swing around on the Virginian, why, that is my idea of the position they were in.

Q. That is the best you can give us from your recollection of it? That is what I want to get?

A. It is not from any recollection, it is from the position I observed it they were in from the Strathalbyn passing us and watching the lights on the Virginian.

Q. He asked you if that is accurate; is that as accurate as you can get it?

A. Accurate as I can get it, but not by any means

the position they were in. I would not have it said they were in that position.

Q. You do not know what their positions were, do you? A. Only from what I saw of the lights.

(Witness excused.)

(Signature waived.)

(Filed May 28, 1914.)

DEPOSITION OF DAVID W. DICKIE

BE IT REMEMBERED, that on Friday, April 10, 1914, pursuant to stipulation of counsel entered herein, at the office of FRANCIS KRULL, a United States Commissioner for the Northern District of California, at his office, room 309, U. S. Postoffice and Court-House Building, in the City and County of San Francisco, State of California, personally appeared before me, the said Francis Krull, DAVID W. DICKIE, a witness produced on behalf of the Libelants. W. H. HAYDEN, ESQ., of Messrs. Hoffer & Hayden, appeared as proctor for Strathalbyn Steamship Company; W. H. BOGLE, ESQ., appeared for the Steamship "Virginian", and IRA CAMPBELL ESQ., appeared as proctor for the Strathalbyn Steamship Company, bailee of cargo, and the said witness, having been by me first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid, did thereupon depose and say as is hereinafter set forth:

(It is hereby stipulated and agreed by and between the proctors for the respective parties hereto that the testimony of DAVID W. DICKIE may be taken at this time before Francis Krull, a United States Commissioner at San Francisco, California, and read and used in evidence in the above entitled causes for all purposes of this action, subject only to the objections made at this time. It is also stipulated and agreed that the signature of the witness to the testimony may be waived as well as the reading of the testimony over to the witness, and that the testimony may be transcribed and the original thereof sent to the Clerk of the United States District Court for the Western District of Washington, Southern Division, at Tacoma).

DAVID W. DICKIE, a witness called on behalf of

the Libelant, having been duly sworn, testified as follows:

MR. HAYDEN: Q. What is your full name?

A. David Walker Dickie.

Q. What is your business? A. Consulting Engineer and Naval Architect.

Q. What schooling and experience have you had, Mr. Dickie?

A. I began as an apprentice at the Union Iron Works, serving a period of four years in covering the three shops, ship-building, ship-carpentering and ship-fitting, steel construction.

Q. The Union Iron Works in San Francisco?

A. The Union Iron Works in San Francisco. From there I was transferred to the drawing-room, where I was employed for two years as a Draughtsman at the Union Iron Works in San Francisco, studying at night under the instruction of my father, Mr. James Dickie, who was at that time Manager of the ship-yard at the Union Iron Works. I then took the Government examination and secured appointment as a Draughtsman in the Government employ at the Union Iron Works. After that I took another examination and secured the appointment of Chief Draughtsman in the Naval Constructor's office at Moran Brothers Company at Seattle, Washington, having charge of the construction of the battleship "Nebraska". I resigned from this position to go to Scotland, to the Glasgow University, Scotland, where I took a post-graduate course for two terms.

Q. Covering what? A. Covering naval architecture, engineering and electricity. In the vacation which intervenes between the two terms I was employed by the Clydebank Ship-building Company on the Atlantic Liners "Coronia" and "Carmania". After returning to this country I was employed by the Newport News Ship-building and Dry-dock Company in their scientific department; from the Newport Ship-building and Dry-dock Company I went to the Fore Rivers Ship-building Company as a Draughtsman. During the depression in ship-building I took an appointment as Assistant Engineer of works with the National Cash Register Company at Dayton, Ohio. I landed in San Francisco

on Christmas, 1906, joining my father in business as an Engineer and Naval Architect in 1907. My brother and I joined in the business which we now have and which we built up to the standing which we now obtain in the community. I have acted as Consulting Engineer for Moore & Scott Iron Works, making estimates of costs for repairs, a most responsible work in connection with work and I made all the working drawings for them during the building of the "Coalinga", an oil-vessel here, and of the ferry-boat "Edward T. Jeffreys", which has recently been built and gone into service.

Q. Your general business now is Consulting Engineer and Marine Architect in connection with steamboats and steam shipping entirely, is it? A. Steamboats and steam shipping and also in connection with the internal combustion engines popularly known as the Diesel engines here.

Q. Have you made a study of the direction that the "Virginian" took through the "Strathalbyn" from data that was furnished you by myself? A. Yes.

Q. Will you please produce the data that was given you for that purpose? A. About March 16, 1914, I received by Wells, Fargo a package containig certain blue-prints of the "Strathalbyn" numbered from 1 to 9, and also a blue-print of "Libelant's Exhibit X-15" showing repairs to the "Strathalbyn". In that same package the following blue-prints of the "Virginian"—the shell expansion forward, the shell expansion aft, the framing plan forward, the framing plan aft and a small plan showing the sections of the "Virginian" forward; also the following photographs, numbered 6, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, size 6½ by 8½, showing the damaged ship, and two smaller photographs, one on the starboard side of the bow of the "Virginian" and one a bow view of the "Strathalbyn", taken on a direct line with the side of the vessel.

Q. Now, have you that data here?

A. I have the data in front of me.

MR. HAYDEN: I will say that the plans of the "Virginian" are those that were called for and that were furnished to us by the attorneys for the "Virginian".

MR. BOGLE: Are the plans of the "Strathalbyn"

referred to by the witness documents that have been introduced in evidence?

MR. HAYDEN: No. None of the plans of the "Strathalbyn" have been introduced in evidence but the one signed by Mr. Jack, and I think that we will have to use that plan of the "Strathalbyn" and that if it is required we will prove a "Strathalbyn" plan. The only purpose of that plan will be to get the width of one of the frames or beams so as to use that width as a measurement of calculating distances; I don't know that it would be necessary to take depositions in Europe where these plans come from for that purpose, because the distances will be relative anyway, as they are all balanced from that measurement, and of course if there is any error in that at all it would correspond throughout the whole measurement; but I do not believe there is any error.

Q. Mr. Dickie, I just mentioned a plan of the "Strathalbyn" that has not been introduced in evidence. Have you that handy? A. This is a plan known as "Strathalbyn" 4, inboard profile," has the builder's name, Archibald McMillan & Son, Limited, ship-builders at Dumbarton, and is countersigned evidently by their Engineer or somebody in authority.

Q. What use did you make of this plan marked "Strathalbyn 4"? A. From this plan I have taken the size of the beams on the various decks; to-wit, on the forecastle deck the beams are given as 8 inches by $3\frac{1}{2}$ inches by 20-40ths inches bulb angles, on alternate frames; also on forecastle deck some of the frames are 9 inches by $3\frac{1}{2}$ inches by 22-40ths inches, bulb angles; on the upper deck some of the beams are 9 inches by $3\frac{1}{2}$ inches by 21-40ths, bulb angles. On the main deck, the beams are 10 inches by $3\frac{1}{2}$ inches by 23-40ths inches, bulb angles, and on the stringers some of the beams are 10 inches by 6 inches by 20-40ths inches, bulb tees. One of the other stringers is 9 inches by 6 inches by 18-40ths, bulb tees.

MR. HAYDEN: That may be marked "Dickie identification 1". I have had a copy of "Libelant's Exhibit X-15" marked "Dickie identification 2"; Q. Is that

a part of the data that you used in connection with the study that you have made of the problem? A. Yes.

Q. Now, did you use any of the plans of the "Virginian" in connection with that study? A. I did.

Q. What plans did you use? A. From a small plan labeled "Section of the forward body of the Steamship 'Virginian'" I obtained the necessary sections at A, B and C, which gave me the shape of the vessel forward, and from which I built up Plan 330-E of my own.

Q. We will mark the section of the forward body as "Dickie identification 3". Did you use any of the other "Virginian's" plans? A. Yes, I used the framing plan forward body of the "Virginian".

MR. HAYDEN: We will mark that "Dickie identification 4". A. (continuing) And the shell expansion and the forward body of the "Virginian".

MR. HAYDEN: We will mark that "Dickie identification 5". Q. Did you use any other plans of the "Virginian"? A. No, that is all of the "Virginian".

Q. Did you use any photographs? A. Yes. You should introduce this one here, "Strathalbyn 6" in order to get the thickness of the shell-plating and corroborate Mr. Jack's drawing.

MR. HAYDEN: Yes, this was demanded by you, Mr. Bogle, as it was wanted to get the thickness of the shell-plating on the "Strathalbyn". We will mark this "Dickie identification 6". Q. "Dickie identification 6" is called what?

A. Shell expansion forward on the "Strathalbyn". In my examination I used photograph of "Strathalbyn" numbered 14.

MR. HAYDEN: Mark that "Dickie identification 14".

THE WITNESS: 15.

MR. HAYDEN: Mark that "Dickie identification 15".

THE WITNESS: 8.

MR. HAYDEN: Mark that "Dickie identification 8".

THE WITNESS: 13.

MR. HAYDEN: Mark that "Dickie identification 13", being also copy of Libellant's Exhibit X-16".

THE WITNESS: 18.

MR. HAYDEN: Mark that "Dickie identification 18", being also copy of "Libelant's Exhibit X-18".

THE WITNESS: That, a bow view of the "Strathalbyn".

MR. HAYDEN: Mark that "Dickie identification 19."

THE WITNESS: 20.

MR. HAYDEN: Mark this "Dickie identification 20."

Q. From your study of these photographs marked for identification as heretofore mentioned did you make any plats as a result of your study? A. I made plan No. 329-E of the "Strathalbyn" from the data given on the photographs and the drawings that have been introduced in evidence, and plan No. 330-E of the "Virginian" from the photographs and data that have been introduced in evidence.

MR. HAYDEN: Mark 30 plan of "Strathalbyn" as "Dickie identification 329-E," and mark Study plan "Virginian," "Dickie identification 330-E."

Q. From your study, Mr. Dickie, of identifications which you have just referred to, did you come to a conclusion as to the angle of approach of the "Virginian" and the angle that she went into the "Strathalbyn" after striking her?

A. The conclusion I came to was that the "Virginian" struck the "Strathalbyn" at about an angle of 33 degrees and 49 minutes, or 3.06 points of the compass, measuring from the center line of the two vessels or that the center line of the "Virginian" approached the "Strathalbyn" about square to the shellplating in the region of the forecastle-deck.

Q. From what side did the "Virginian" approach the "Strathalbyn," what side of the "Strathalbyn"?

A. The "Virginian" approached the "Strathalbyn" on the port side of the "Strathalbyn."

Q. Now, Mr. Dickie, will you please explain in detail how you arrive at that conclusion, referring to the identifications by the numbers that have been given to them, showing the corresponding numbers on your study plans?

A. From "Identification 1" of the "Strathalbyn" and "Identification 6" of the "Strathalbyn" and "Identification 2" of the "Strathalbyn," being Mr. Jack's plan of the repairs, I made a profile of the "Strathalbyn" showing the stem and the forward part of the vessel, and the location of the various decks, and marked on the plans the size of the beams on the various decks. I also made a plan of the vessel looking down showing the forecastle deck, the upper deck and the main deck. I put on the plan the upper stringer, but that upper stringer I found since had no bearing on the case, but I did not erase it. From the plans, "Identification 4," "Identification 5" and "Identification 3" of the "Virginian," I made a profile of the "Virginian" giving the location of the various decks and also made a plan view showing the line of contact of the forecastle deck, the upper deck and the main deck of the "Strathalbyn" with the "Virginian"; that is to say, the lines which are shown on the bottom of Plan 330-E, indicates the shape of the "Virginian" at the height of the point of contact of the decks of the "Strathalbyn" with the "Virginian."

Q. The study plans I have referred to and that you have just been referring to are what?

A. Are plan 329-E and plan 330-E; by referring to photographs "Identification 14," "Identification 15" of the "Strathalbyn," the marks of the stem are plainly shown on the beams that are damaged both on the upper deck and on the main deck. I will now draw those beams to correspond with the numbers as shown on my plan 329-E, which numbers were taken from the exhibits of the "Strathalbyn" which have just been introduced in evidence.

Q. Now, Mr. Dickie, you have put a lot of numbers on both "Identification 14 and 15." Commence with "Identification 15" and state what the numbers mean and their relation to your study plan, the study plan that they have any relation to?

A. No. 166 is the number which I have placed on collision bulkhead on photographs No. 14 and No. 15 and corresponds to No. 166 on my study plan, 329-E, which is the number of the frame of the collision bulkhead; the numbers 168, 170 and 172 are the correspond-

ing frame numbers to which these various beams are attached at the side of the vessel; the same remark applies to frame No. 164 and frame No. 162,—those two frames being samples of the main frames of the vessel; at the points 168, 170 and 172, there was originally a frame similar to that shown at 162 and 164, and to which these beams had been previously attached before the accident.

Q. In other words there had been frames at the places, 168, 170 and 172 but those frames don't appear in the photograph?

A. No, the frames have been torn away by the accident. Now in my study plan drawing No. 329-E, up in the lefthand corner is shown the construction of the frames and reverse bars, such as indicated by numbers 162 and 164 in the photographs, and this is drawn for the purpose of finding out the distance from the center of the rivets to the heel of the frame; this distance is shown on the sketch as 4 inches. Now by looking at plan 329-E, it will be seen that the beams No. 168, 170 and 172 on photograph "Identification 15" and "Identification 14" are given as 9 inches by $3\frac{1}{2}$ inches by 21-40ths inches, bulb angle.

Q. You got that measurement from what?

A. This information was taken from plan of the "Strathalbyn," "Identification 1." We are only concerned for the present with the depth of that beam which is 9 inches. What I did in this particular case was to set my dividers to the depth of the beam and space off on the beam the number of depths in each case from the frame holes in the beam brackets.

Q. As shown where?

A. As shown on "Identification 14" and labeled "Frame holes" and "Identification 15" labeled the same way.

Q. Now you say you took 9 inches as being the depth of the beam. Show on "Identification 14 and 15" the beam that you took that 9 inches from and how you took it?

A. Beam No. 170 and Beam No. 168, marked with a witness mark, are 9 inches deep, this 9 inches being taken from plan "Identification 1" of the "Strathalbyn."

Q. The marks on that photograph "Identification 15" at the end of the line from that frame are 9 inches deep?

A. Yes. This method which I am using to illustrate is not as accurate as can be done by means of dividers, but I do not have the dividers with me, but I have marked with a lead-pencil on a piece of paper the depth of the beam. It is now possible to take this depth and mark on the beam with a lead-pencil spacings 9 inches apart.

Q. What photographs have you marked those spacings on? A. "Identification 15."

Q. Why did you mark off those spacings on there?

A. I have marked off four spacings from the frame holes in the beam-brackets over to the cut of the stem, which shows plainly in the flange of the beam.

Q. What beam are you referring to?

A. Beam No. 170. Now, these spacings being 9 inches apart, four 9-inch spacings would give you 36 inches, plus the 4 inches from the center of the rivet to the heel of the frame, as shown on study plan 329-E would give you 40 inches, the distance from the cut on the flange of that beam out to the heel of the frame on beam No. 170, upper deck.

Q. On "Identification 15" please mark the place that indicates the cut of the stem of the "Virginian," on that beam? A. Yes.

Q. You have marked that "Cut of stem of 'Virginian' ", have you? A. Yes.

Q. Do you find any other indications of any other beam being cut by the stem of the "Virginian"; if so, draw identification lines up to the same line that you have labeled cut of the stem of the "Virginian" from those other cuts.

A. You find the same marks on beam No. 168 and beam No. 172 of the upper deck, and I have drawn marks to the cuts.

Q. Do you find those cuts on any other beams?

A. On beam 170, on the main deck a similar cut appears.

Q. Will you please mark that? A. Yes.

Q. You might mark on "Identification 15" a line,

carrying it out to the right hand side of the picture, showing the forecastle deck, the upper deck and the main deck, so as to identify the decks? A. Yes.

Q. You have marked on the right hand side of the picture after the identification mark "upper deck" and under that "main deck" and on the left hand upper side of the picture "forecastle deck"? A. Yes.

Q. Go ahead now in your own way?

A. With these distances which I obtained in the above described manner, I laid off on my study plan of 329-E, from the intersection of the beams on the upper deck with the side of the vessel certain distances which I have found to be 40 inches on beam 168, 40 inches on beam 170, and 37 inches on beam 172. By drawing a line through those three points I obtained a line which represented the direction of approach of the "Virginian," which direction is indicated by the fact that the stem of the "Virginian" first cut beam 172 at a point 37 inches in from the side of the vessel; then when it reached beam 170 it cut at a point 40 inches in from the side of the vessel, and then when it reached 168, it cut at a point 40 inches in from the side of the vessel.

Q. On what deck was that?

A. That was on the upper deck. And by laying these distances off on the plan of the upper deck it is seen to lie in a straight line at an angle of 33 degrees 49 minutes from the center line of the "Strathalbyn."

Q. Now, assume that the "Strathalbyn" had a list of about 6 degrees to starboard when she was loaded, and using that as a fact in connection with your further explanation, continue with your explanation?

A. On photographs "Identification 8" and "Identification 9," beam 170—

Q. Mark it beam?

A. (Continuing) —on the main deck, shows a cut of the stem similar to the cuts which are shown on the beams on "Identification 15"; from this cut I measured the distance to the heel of the frame in the same manner and by the same process as I measured the distances on photograph "Identification 15." The vessel was farther away from the camera in "Identification 8 and 9" than it was in "Identification 15," and consequently the meas-

urements are taken at a smaller scale. This measurement, as close as I could make it appeared to be 15 inches.

Q. Fifteen inches from where?

A. Fifteen inches from the notch in the beam caused by the stem of the "Virginian" to the heel of the frame on beam 170 on the main deck of the "Strathalbyn." Measuring this 15 inches in from beam 170 on the main deck along the beam gave me a point of contact of the stem of the "Virginian" with beam 170 of the main deck of the "Strathalbyn," and I then assumed that the "Virginian" was on an even keel and by placing the two points of contact on beam 170 on the upper deck over beam 170, point of contact on the main deck, I arrived at the angle of the heel which the "Strathalbyn" would have provided the "Virginian" was on an even keel.

Q. You mean by an even keel with respect to the stem, what?

A. The stem was plumb up with respect to the water line. This angle was about 5 degrees and 40 minutes. This angle was lifted for the purpose of checking, to see if the angle of heel was anywhere near the angle of heel as given in the testimony, which I did not have at the time I made the study.

Q. You understand now that in the testimony the angle of heel of the "Strathalbyn" was 6 degrees?

A. I learned yesterday morning that the testimony of the "Strathalbyn" showed that the vessel had an angle of 6 degrees. "Identification No. 19" showed the vessel to have a list to starboard of about 8 degrees, but I am given to understand that the photograph No. 19 was taken after the vessel was repaired, merely to indicate how the vessel looks when she is listed. Now, by referring to photograph "Identification No. 14" and "Identification 15," it will be seen that the bead around the forecandle deck and in fact all the damage on the forecandle deck indicates that the stem of the "Virginian" struck forward of the hawse-pipe; and the fact that the cuts on the beams caused by the stem of the "Virginian" are so far in toward the center line of the "Strathalbyn," that this is an indication that the "Strathalbyn" took a list to starboard when she was struck by the "Virginian,"

which still further bears out my reasoning that the vessel had a list to starboard. By referring to photographs "Identification 8" and "Identification 9" of the "Strathalbyn," the point of exit of the "Virginian" from the wreckage of the "Strathalbyn" is at the junction of the main deck and the collision bulkhead which is on frame 166 of my study 329-E, and four frames aft of the collision bulkhead or at the junction of the upper deck and frame 162 of the "Strathalbyn" on my study plan 329-E. On photograph "Identification 14," the fourth frame aft of the collision bulkhead or frame numbered 162 is pushed aft at the forecastle deck nearly to frame No. 161, referring to the numbers on plan 329-E. These facts give the location of certain points which enable me to complete the line of approach of the "Virginian" on plan 329-E. By referring to "Identification 20," being a starboard side view of the "Virginian" after the accident, it will be noticed in three places, one at about the level of the $23\frac{1}{2}$ foot draught mark and two others, one about 8 feet above the latter, and another one about 8 feet above that again, which show the points of contact with the "Strathalbyn"—

Q. (Interrupting) What portion of the "Strathalbyn"?

A. The deck line of the "Strathalbyn"—come opposite these points. Now, by placing drawing 329-E, and drawing 330-E opposite each other it will be found that these lines of contact when carefully laid off on both drawings come opposite each other; that is to say, that the lines on the photograph indicating the break where the shell plating of the various decks injured the "Virginian," come opposite the lines of the deck plating on the "Strathalbyn." This gave me the difference in draught of the two vessels at the time of the collision which was 5 feet 6, and I telegraphed to Mr. Hayden at Tacoma for the draughts of the vessels in order to check by reasoning at this point, and the draughts which he replied were 22 feet 6 inches forward on the "Strathalbyn" and 17 feet forward on the "Virginian," the difference between these two being 5 feet 6 inches, which checks exactly with my drawing. When the "Virginian" struck the "Strathalbyn" she carried the shell-plating,

the stem and forward structural material of the "Strathalbyn" with her, the stem of the "Virginian" following along the line drawn on drawing No. 329-E, until it arrived at about frame 167, at which point the cushion formed by the wreckage, coupled with the heeling of the "Strathalbyn" toward the "Virginian," made the "Virginian" heel to port and caused the after end of the line to be curved as shown on drawing 329-E. In order to further corroborate the angle of contact I laid off the shape of the wreckage on the "Strathalbyn"—

Q. (Interrupting) Just half a minute. Where did you get the data to lay off the shape of the wreckage?

A. By referring to photograph "Identification 15" it will be noticed that beam 170 on the upper deck is bent at a point near its center. Referring to drawing 329-E, this beam is 9 inches deep, and by spacing off on this beam the 9 inch spaces the same as I have explained previously, we find that the distance from the bend in the beam to the frame holes of the beam broken, 6 feet 2 inches plus the distance from the frame holes to heel of the frame, gives a total distance of 6 feet 6 inches; and laying this distance off on plan 329-E from the side of the vessel at the upper deck, on frame 170 we get a point which indicates about where the end of the wreckage is located. Referring to photograph "Identification No. 14" it will be seen that the end of the second strake from the top is just over the bend in beam No. 170 of the upper deck.

Q. You are indicating that how?

A. I am indicating that by a witness mark and a note at the side of the photograph, upper deck; I am also marking the end of the second strake from the top. By comparison with the strake above, which I am marking the top strake—

Q. (Interrupting) On "Identification 14"?

A. On "Identification 14," it will be seen that this plate is broken off about 10 inches back from the root of the stem or the place where the shellplating joins the back edge of the stem.

Q. Which strake is that that is broken off?

A. The second strake from the top. This is indicated by the fact that the stem is about 10 inches wide.

Q. What stem?

A. The stem of the "Strathalbyn" is about 10 inches wide and is bent back on the shell plating.

Q. Where is that stem that you are referring to now shown in that picture? Identify it, please, by a witness mark, "Strathalbyn stem."

A. I have marked on this "Strathalbyn's stem."

Q. That is on "Identification 14"?

A. On "Identification 14." Now, by referring to photograph "Identification 13" it will be seen that the lower edge of the second strake from the top is outside of the bend in beam No. 170 which I am now marking on "Identification 13," a distance equal to about 9 inches, or the depth of the beam, while the upper edge of the second strake from the top appears to be directly over the bend in the beam 170 marked before. Now by laying off on plan 329-E these two points, one directly over the 6 foot 6 mark on beam 170 and another point 9 inches forward of that and drawing a line from this point, the shape of the wreckage out to the vessel's side on the port side, on plain 329-E, we are able to get the shape of the wreckage. In order to locate the shape of the wreckage on the port side we refer to photograph "Identification No. 18," which shows on the top strake a port light which is marked by me "port light" and also a butt in the plating in the second strake from the top, the port light being about the beginning of the bend in the upper strake and the butt in the plating being aft of the bend in the second strake from the top. By referring to "Identification 6," being a drawing of the shell expansion of the "Strathalbyn," it will be seen that this port light is located between frames 171 and 172 in the upper strake of the "Strathalbyn," and that the butt in the second strake referred to is between frame 170 and 171. We now have established the two ends of the bent plates of the "Strathalbyn." As a further check on this we may take the length of the plate from the root of the stem on the port side of the "Strathalbyn" back to the port light which is on the port side of the "Strathalbyn" in the upper strake and measure this distance around the wreckage as indicated by the lines which I am now marking on plan 329-E as wreckage lines, and you will find that these

wreckage lines correspond exactly in length to the distance from the port light to the root of the stem and from the butt in the plating to the root of the stem. I will now mark the butt in the plating—

Q. (Interrupting) On what?

A. On the plain 329-E. Now, by placing the plan of the "Virginian" 330-E on top of the plan of the "Strathalbyn" 329-E, it will be seen that the contour of the "Virginian" along the lines indicated by the line of contact of the various decks of the "Strathalbyn," such as the forecastle deck, upper deck and main deck—

Q. (Interrupting) These lines of contact are shown on the "Virginian's" plan 330-E?

A. Yes—fit almost exactly into the line of the wreckage which I have laid off from the photograph on plan 329-E. From these facts I am further convinced that my reasoning from the cuts of the stem on the beams of the "Virginian" is correct; and I am still further convinced that the angle of impact and the force of the impact caused the "Strathalbyn" to list to starboard by the fact that the curve of exit of the "Virginian" from the "Strathalbyn" commences to take place at the point where the wreckage on the "Strathalbyn" had crumpled together sufficiently to form a cushion for the side of the "Virginian" to exert a pressure against. From ships of the size of the "Strathalbyn" and of the same metacentric height approximately I took the data that the period of roll of the "Strathalbyn" would be about 20 seconds, and as the length of the damage on the "Strathalbyn" is about 32 feet, I am led to believe that the speed which the "Virginian" was traveling at was about one knot an hour, when she was passing through the "Strathalbyn." By examining plan 330-E, it will be seen that in every case it so happened that the deck plating of the "Strathalbyn" came in contact with the "Virginian" at a point where there was a minimum of structure behind it to resist the force of the impact; that is to say, it will be noted that the main deck of the "Strathalbyn" cut into the "Virginian" above the top of the peak-tank.

Q. Of the "Virginian"?

A. Of the "Virginian"; that the upper deck of the

"Strathalbyn" cut into the "Virginian" above the lower deck of the "Virginian," and that the forecastle deck came in contact with the point above the middle deck of the "Virginian." This accounts in my opinion for the fact that the "Virginian" shows comparatively little damage and that at the line of these three decks on the "Strathalbyn" there is shown on the photograph of the "Virginian" three very bad cuts in the side plating of the "Virginian," one caused by the main deck of the "Strathalbyn," one by the upper deck of the "Strathalbyn" and the other one by the bulb of the anchor of the "Strathalbyn."

Q. Will you please indicate on "Identification 20" the cut that is shown to have been made by the main deck of the "Strathalbyn" and the other decks that you have referred to, writing on there if there is room, cuts by "Strathalbyn" or "S," main deck, etc.

A. I have marked on "Identification 20" the cut of the main deck of the "Strathalbyn," cut of the upper deck of the "Strathalbyn" and cut of the anchor of the "Strathalbyn," abbreviating the word "Strathalbyn," using the letter "S." The natural consequence of this was that the stiff parts of the structure of the "Strathalbyn," notably the decks, penetrated the structure of the "Virginian" while the other part crumpled and bent, clearly forming a cushion of wreckage. Another point was that the "Strathalbyn" was practically at rest at the time of the accident, as the lower part of the stem is pushed over to port instead of being pushed aft, as might be expected if the "Strathalbyn" had been going ahead; and further, if the "Strathalbyn" had been going ahead, she would have crushed in the starboard bow of the "Virginian" in a manner that does not show in that photograph of the "Virginian"; the stem pushed over to port on the "Strathalbyn" is shown on "Identification No. 18" from a point about the 29 foot mark, which I am marking on "Identification No. 18," and I am marking "Stem pushed to port."

Q. I wish now on "Identification 18" and "Identification 13" you would underline the writing that you have put on those photographs because there was some

other writing on them before you put any on there, and I want to identify your writing.

A. I will initial my writing.

Q. What initial did you put there. A. "D. W. D."

Q. As well as underlining. A. Yes.

Q. From an examination of the plans of the "Virginian" did you determine what the width of the stem of the "Virginian" was?

A. From plan "Identification 5," which shows the width of the stem between the dotted line and the full line, indicating the stem at the forward part of the drawing, it will be seen that the stem of the "Virginian" is about 12 inches.

Q. That is a fore and aft width, is it? A. Yes.

Q. Can you determine what is the athwartships width of it, at right angles to fore and aft?

A. The plan giving the athwartships width of the stem has apparently not been sent, but the thickness of the stem is about 3 inches; I know that from ships of similar size. It is not marked in here. They have apparently made a different drawing of the stem as the construction of the stem at the bottom is shown by drawing "Identification 5" to be somewhat complicated, and they have apparently made a separate drawing to get over that complication.

Q. Examining the drawing of the "Virginian" do you find her stem has any overhang?

A. The stem of the "Virginian" has an overhang of about 12 inches, which I have indicated on the drawing 330-E, and have marked "12 inches overhang."

Q. You spoke about the roll of the "Strathalbyn." Assuming that the "Strathalbyn" rolled to starboard when she was first struck by the "Virginian," would that roll have a tendency to throw the line of the cut on the upper decks of the "Strathalbyn" nearer her fore and aft center line than if she had no list?

A. It certainly would.

Q. The curve on the part of that line of entrance of the "Virginian" into the "Strathalbyn," at the after end of that line, the after portion of that line, as shown on your study plan 329-E, indicates what?

A. Indicates that the "Strathalbyn" was in the re-

turn part of the roll caused by the contact of the "Virginian"; that is to say, when the "Virginian" struck the "Strathalbyn" she rolled to starboard, but when the energy was exhausted, the energy which is inherent in the ship to return to the upright, due to her design, caused her to roll back again to the upright position, and it is this roll back that caused the line to be curved as shown. Likewise in my opinion the roll of the "Strathalbyn" to starboard carried the "Virginian" with her so that the "Virginian" rolled to port and the rolling of the "Virginian" to port would also cause the line of the "Virginian" to be curved as shown.

Q. The plans of the "Strathalbyn" show the distance between the decks to be how much?

A. The plans of the "Strathalbyn" show the distance between the decks to be about 8 feet. The upper one may have been, that is, the distance between the fore-castle deck and the upper deck may have been 7 feet 6, but I think, as close as I could measure it, they are between 7 feet 6 and 8 feet.

MR. HAYDEN: Now, I offer these identifications referred to in the testimony in evidence.

Q. Referring to the lower figure on that plan, 329-E, Mr. Dickie, I see that there are parallel lines there terminating at the right hand end of the drawing, which is the bow of the ship. What do those parallel lines represent?

A. Those parallel lines represent the center line fore and aft of the decks at various points, the one closest to the bottom of the plan representing the center line of the fore-castle deck and the one next to that the center line of the upper deck, the one next to that again, the center line of the main deck, which are so marked on the plan. The other lines are the center lines of the points of the stringer, but have absolutely no bearing on the case, and I would have taken them out but these are Van Dyke negatives, and it is quite a difficult thing to do.

Q. Why did you put these center lines of the various decks other than one right under the other?

A. The reason I put them to one side of each other, the way they are shown, was to indicate to a lay mind that the vessel had a list, and that when a vessel does

have a list, the deck above is necessarily to starboard of the center line of the next deck immediately below it, and the deck immediately below it, such as the upper deck in this case, the center line of that deck would be to starboard of the deck that was immediately below that again.

Q. Then those lines indicate the center line and the list of the ship at the same time? A. Yes.

(By consent an adjournment was here taken until tomorrow, Saturday, April 11, 1914, at 9 a. m.)

SATURDAY, APRIL 11, 1914.

CROSS EXAMINATION, DAVID W. DICKIE.

MR. BOGLE: Q. By whom were you first employed or engaged to testify in this case?

A. By Mr. William H. Hayden, attorney for the "Strathalbyn."

Q. When?

A. About December 14, about the middle of December, 1913.

Q. By personal interview? A. Yes.

Q. Where?

A. In my office, 112 Market street, San Francisco, California.

Q. Then you don't represent either of the vessels involved in this collision?

A. As a direct surveyor, no.

Q. Have you ever seen either of those vessels?

A. Yes, I have seen the "Virginian." I have not seen the "Strathalbyn."

Q. Have you ever been aboard or examined the "Virginian"?

A. I have been aboard the "Virginian" and examined her, yes.

Q. Did you examine her with a view of testifying in this case? A. No.

Q. Your testimony is based entirely upon documents, plans and statements made to you by libelant's attorney?

A. My testimony is based entirely upon the plans furnished me and the photographs furnished. I paid no attention to the statements of the attorneys in doing this expert witness work.

Q. The plans that you base your testimony on are those that you have mentioned in your direct examination? A. Yes.

Q. The plans of the "Strathalbyn," the plans of the "Virginian" and the blue-prints made by Mr. Jack.

A. Yes.

M. HAYDEN: Q. And the photographs?

A. Yes, and the plans made by myself.

MR. BOGLE: Q. The plans that you have made yourself you made from the other plans? A. Yes.

Q. Not from the ship's plans? A. No.

Q. Nor from either vessel, itself? A. No.

Q. So that your testimony is theoretically entirely based on the plans made by other parties, and photographs, and the like?

A. My testimony is a deduction of certain facts from certain distances which are shown on these plans.

Q. Not from observation, but it is your theory or deductions that you made from the facts shown on these plans?

A. I brought forward no theories. I merely measured the actual distances from the drawings.

Q. Your employment here was as an expert witness upon behalf of the "Strathalbyn," was it not? A. Yes.

Q. And unless your testimony had been favorable to their case, you would not have been a witness?

MR. HAYDEN: I object to that as immaterial.

A. If my testimony had been unfavorable to the "Strathalbyn," I would have submitted it to the attorney, and he could have used it or not, as he chose.

MR. BOGLE: Q. You understood, however, that it would not be used, did you not?

A. That would be up to the attorney.

Q. That is your understanding, though?

A. I have no such understanding with Mr. Hayden.

Q. You did not expect that your testimony would be used if it was unfavorable to the "Strathalbyn," did you?

A. I did not come to any conclusion in the matter, at all.

Q. Did that matter never occur to you at all?

A. No.

Q. What is the size of the "Virginian"?

A. She is 492 feet long, 58.3 feet beam, 31.9 feet depth of hold, 35 feet 6 inches moulded depth, 7914 tons gross, 5077 tons net; she is a three-deck and shelter deck vessel.

Q. What is the document that you are reading from?

A. This is a report which I made to Mr. Hayden of my work on this case.

Q. Where did you get the information that you embodied in that statement that you have just made?

A. That statement was taken from Lloyd's register of British and foreign shipping.

Q. You say you are reading from a report you made to Mr. Hayden. When was that made?

A. That was made about 2½ weeks ago.

Q. Is that the same paper you have been reading from during the time that you have been testifying?

A. Yes.

Q. Do you know what draft the "Virginian" had at the time of this collision?

A. I telegraphed to Mr. Hayden at Seattle about eight days after I had begun this study on this, and when I completed my studies, to please write me draught of both vessels at the time of the accident. I had come to certain conclusions on that matter, and Mr. Hayden telegraphed me on March 26th, 1914, that the "Strathalbyn's" draught forward was 22 feet 6 inches, draft aft, 25 feet, and the "Virginian's" draught forward was 17 feet and aft 20 feet.

Q. You had already deduced the theory which gave you a draught of each vessel, had you?

A. I had taken the draught of each vessel from the marks on the photograph of the "Virginian" and the draught of water of the "Virginian" as shown by the photographs, and the draught of water of the "Strathalbyn" as shown by the "Virginian."

Q. I understood you to state that you figured out the speed of the "Virginian." Was I correct in that understanding?

A. No, I think you have misunderstood me. What I figured out was that the speed of the "Virginian" must

have been about .95 of a knot to correspond to a period of roll of 20 seconds for the "Strathalbyn." I said that was quite a possible and probable condition.

Q. As a matter of fact, you cannot tell from these photographs and plans of the ship whether the "Virginian" was in motion and the "Strathalbyn" at rest, or the "Strathalbyn" in motion and the "Virginian" at rest, or both in motion, can you?

A. You can tell from the photographs whether the "Strathalbyn" was in motion or not, because if the "Strathalbyn" had been in motion, the character of the damage would have been similar to photographs which we have of other ships that have been damaged.

Q. You mean to say that these photographs demonstrate that the "Strathalbyn" was at rest?

A. Practically at rest.

Q. Will you please state what fact there is about the photographs that demonstrates that?

A. If you will examine identification No. 18, you will notice that the stem of the "Strathalbyn" is pushed over to port from the 29 foot water line down to the present water line as shown in the photograph. If the "Strathalbyn" had been proceeding ahead, the stem would have been crushed in or crushed aft, due to the fact that she was coming forward and was coming in contact with the "Virginian"—

Q. (Intg.) Just a minute there. I see you have models of the two vessels before you. You are assuming that the "Virginian" struck on the bow, in order to work out this theory, aren't you?

A. No, I know where she struck on the bow, because there is the damage to prove it.

Q. You are assuming that her angle of strike was off the port bow. A. Yes.

Q. If, as a matter of fact, the two vessels struck practically head on, the wreckage on the "Strathalbyn" below the point where the two stems struck, would be shoved to the "Strathalbyn's" port, would it not? That is the probability, is it not?

A. If both vessels struck head on, the probability is, as a matter of fact, I don't think there would be any

probability about it, the fact would be that both vessels would be crushed in on the bows.

Q. Would not the wreckage be shoved to port on the "Strathalbyn"? A. Part of it.

Q. As a mere matter of physical laws, would not the bulwarks of the "Virginian's" hull shove the wreckage of the "Strathalbyn" over to the "Strathalbyn's" port?

A. No, I don't think it would. The two vessels, head on, the wreckage would be, in the case of the "Virginian," crushed aft into the frames, and the wreckage in the case of the "Strathalbyn" would be crushed aft into the "Strathalbyn."

Q. As a matter of fact, the wreckage on the "Strathalbyn" below the break on the stem of the "Strathalbyn" was shoved to port, the "Strathalbyn's" port, was it not?

A. Yes.

Q. Would not the likelihood of being so shoved to port be less if the angle of contact was as you have described it, 3 points off the "Strathalbyn's" port? Would not the natural result of the action of the "Virginian" on the "Strathalbyn," if the point of contact was as you have described it, be to carry in and to starboard the wreckage on the "Strathalbyn"?

A. You are neglecting the fact in that question—

Q. (Intg.) Just answer the question and explain it as you please.

A. The wreckage above the cut would be carried to starboard, and was carried to starboard, as shown by the photographs.

Q. I am referring particularly to the wreckage below the cut.

A. The wreckage below the cut would be pushed to port of the "Strathalbyn," due to the shape of the "Virginian."

Q. You have stated, as I understood your testimony, that the impact of the "Virginian" was pretty nearly at right angles to the plates on the port bow of the "Strathalbyn": Is that correct?

A. At the place of the forecastle.

Q. At the forecastle deck? A. Yes.

Q. Naturally, an impact of that kind would carry the wreckage to the starboard, would it not?

A. Where the cut was above the point of the break, it would.

Q. Where it is below the point of the break, the tendency would be to carry it back, crumple it up, would it not?

A. Not as I understand it. In this case, the stem of the "Virginian" was at a different angle than the stem of the Strathalbyn."

Q. You are assuming it was? A. I know it was.

Q. You were not there?

A. But the testimony, I have since learned, bears that out.

Q. Whose testimony?

A. The testimony of one of the officers of the ship, or someone on board of the ship.

MR. HAYDEN: In connection with my examination, you will remember I said, assuming that the "Strathalbyn" had a list of 6 degrees and the "Virginian" was in an upright position, and of course he has been answering, I presume he has been answering, on that theory.

MR. BOGLE: I inferred that his testimony is based upon an assumption of the 6 degree list of the "Strathalbyn," but I understand him also to say that the "Virginian" came on at an angle? A. Yes.

Q. Not head on? A. Not head on.

Q. That is an assumption on your part. Where did you get that?

A. No, that is a deduction; that is not an assumption.

Q. Do you base your deductions here upon the testimony of any witnesses in this case? A. No.

Q. It is merely a deduction that you make from the plans and photographs that you referred to? A. Yes.

Q. And irrespective of the testimony of any witness?

A. Irrespective of any testimony. In fact, I didn't know such a thing had been testified to at all.

Q. I understand you to say that the "Virginian" was going about one knot an hour, a one knot speed?

A. No, I stated that the period of roll of the "Strathalbyn" was about 20 seconds, and that data was

taken from vessels of the same type and size, and if the period of roll of the "Strathalbyn" happened to be, in this particular case, 20 seconds, then the "Virginian" was going at about the speed of .95 of a knot per hour.

Q. And the "Strathalbyn" was at rest?

A. The "Strathalbyn" was at rest.

Q. How did you get the theory that the "Strathalbyn" was at rest?

A. From the fact that the stem was pushed over to port.

MR. HAYDEN: Q. What part of the stem?

A. The lower part of the stem from the 29-foot water line down.

MR. BOGLE: Q. If it was in motion, where would that stem have been pushed

A. If the "Strathalbyn" had been in motion, due to her enormous weight, the stem would have been crushed back to the center line of the "Strathalbyn", or practically so, due to the fact that it was coming in contact with the starboard bow of the "Virginian"; and also the starboard bow of the "Virginian" would have shown a very serious indentation due to the bow of the "Strathalbyn."

Q. Assuming that the vessels struck practically head-on, Mr. Dickie, can you mention any fact shown by these photographs that demonstrates the "Strathalbyn" was at rest?

A. I cannot answer the question, because the character of the damage does not apply to the question, that is, the photographs do not apply to the question. The photographs would not have been like this. The photographs would have shown that they were squashed or crushed at the forward end of both ships; the stem would have turned, probably, to one side, or crushed straight back in both ships, and the photographs in both cases would have shown a flat surface formed by the wreckage on both ships, if the vessels had met head on.

Q. There were plates on the "Strathalbyn" crumpled?

A. The plates of the "Strathalbyn" were sheared, like.

Q. Were they crumpled? A. Back aft, aft of the wreckage, the plates were crumpled, yes.

Q. Did you ever see the "Strathalbyn"? A. No.

Q. You don't know, except what you see on these photographs?

A. Except what I see on the photographs, that is what I am going by.

Q. Then, as a matter of fact, if the witnesses testified that the plates on the "Strathalbyn" were crumpled, that is a fact that you have not been able to gather from these photographs

A. If a witness testified that the plates on the "Strathalbyn" were crumpled and they did not show in the photograph, I would be inclined—

Q. (Intg.) You would not believe the witness?

A. (Continuing) —to ask the witness some more questions, to find out what he meant by crumpled.

Q. That means that you would not credit his testimony: Is that it?

A. He might be referring to the place aft, here, about frame 160.

Q. As a matter of fact, your theories as to the angle of contact in this case are based upon your reading of the photographs? A. Yes.

Q. And the photographs are rather indefinite, are they not? A. No, the photographs are not indefinite.

Q. You call this a beam, don't you? A. Yes.

Q. Can you point out on that photograph where the first beam shows, the first beam abaft the bow?

A. Which photograph?

Q. Any of them. How do you identify the beams you have marked on your plan? How do you identify them on the photograph?

A. You have the collision bulkhead quite plainly shown in photograph Identification 14. This collision bulkhead is quite simple to identify, as there is a drawing of the collision bulkhead, here, and this drawing and this photograph of the collision bulkhead, No. 167, are so apparently the one and the same thing, we have no hesitancy in deciding that—

Q. (Intg.) That is your number, is it?

A. That is, 166 is the collision bulk-head.

Q. That is your number?

A. That is the number I took from the plan of the "Strathalbyn."

Q. You put it on the photograph?

A. Yes. Then the plan shows that the next beam forward of the collision bulk-head is No. 168; that is this plan here, Identification No. 1. By referring to the upper deck, you will see that there is a beam indicated there, No. 168, labeled below, "9 inches by 3 1-3 by 21-40ths inches, bulb angle." You look on photograph Identification 14, and you will see a bulb angle.

Q. Where? A. Right here, No. 168.

Q. That is, you numbered it 168? A. Yes.

Q. You identify that as the beam that you referred to on the plan of the "Strathalbyn"?

A. Yes. And, again, you look on Identification No. 1 and you find on frame 170 another beam likewise marked the same size, and also a bulb angle, and you look on the photograph and you see a bulb angle beam, so placed that there is no mistaking it, that it is next adjoining the one you have just looked at, so you mark that 170.

Q. That is, you have marked it 170?

A. Yes, I have marked it 170.

Q. You infer that the beam that you have marked 168 is forward of the beam you have marked 170, do you? A. No. Beam 168 is aft of the beam 170.

Q. Which beam is the one you have marked 168 as shown on your plans 329-E? A. There is beam 168.

Q. The third from the bow?

A. The fourth from the bow.

Q. Where does the first beam from the bow show on the photograph?

A. I did not find it on the photograph.

Q. Where does the second show? A. 172.

Q. How do you figure that that is the second?

A. Because it is pointing up here at the wreckage.

Q. They are all pointing in the same direction, aren't they, on the photograph? A. Well, in a photograph of this kind, it is quite apparent that beam 168 is behind beam 170, as I marked it, and it is also quite

apparent that the bulk-head No. 166 is behind beam 168, as I have marked it.

Q. Is it apparent that the beam you have marked 172 is forward of the one you have marked 170—I mean, is it apparent on the photograph? A. Now, by referring to Identification No. 13, it is quite apparent, there, that beam 172, which I am now marking and underlining and initialing, comes out at the wreckage forward of beam 170, which I have already marked and initialed.

Q. You say that is apparent on the photograph?

A. Yes.

Q. What was the displacement of the “Virginian” at the time of this collision? A. I did not look up that point to see.

Q. Do you know what the displacement of the “Strathalbyn” was?

A. I looked up the displacement of the “Strathalbyn”, but I do not have it with me.

Q. Does the question of the relative displacement of the two vessels affect your calculation? A. No.

Q. Your deductions would have been the same, whether one vessel, the “Strathalbyn”, for instance, had been heavily loaded and the “Virginian” with no load, or the “Virginian” heavily loaded and the “Strathalbyn” not loaded? A. If the damage was the same, my deductions would have been the same.

Q. Mr. Dickie, isn’t it a fact that two vessels, striking each other at an angle, it deflects the course and direction of the both vessels—isn’t that a physical fact?

A. They have a tendency to do it.

Q. Not only a tendency, but as an actual fact, they do that? A. They do it—

Q. (Intg.) In all cases? A. (Continuing) To a different extent in each case.

Q. Depending upon the weight or displacement of the two vessels? A. Yes.

Q. The degree of divergence? A. The displacement and the size.

Q. The displacement is the same as size. It is a question of displacement and not size. The degree of divergence depends upon the displacement of the two vessels, does it not, the relative displacement of the two

vessels. In other words, if a vessel strikes a dock or fixed object, the vessel deflects, but the dock does not? A. Sometimes. The dock has deflected several times that I know of.

Q. Not if it is fixed. Now, if a vessel has a very great displacement, and more nearly resembles a fixed object, like a dock, the divergence is less, isn't it? A. Yes.

Q. So that the degree of divergence depends upon the displacement of the two vessels? A. It does.

Q. The relative displacement of the two vessels? A. Yes.

Q. And you have made no calculation with respect to the displacement of either vessel in this case? A. I looked up the displacement to see what they were, but I did not use it, after I got the size in my mind.

Q. I say, you did not know the displacement of the "Virginian", and you did not use your knowledge of the displacement of the "Strathalbyn", so your calculation was made irrespective of the displacement? A. My calculations were made irrespective of the displacement, but I looked up the displacement of the vessel in order to get the size of her in my mind.

Q. But you did not use that as a factor in your calculation? A. No.

Q. What was the beam of the "Strathalbyn"? A. 52.2 feet beam.

Q. What point? A. Amidships.

Q. Where were her light screens? A. Her light screens are on the bridge.

Q. In which direction from amidships?

MR. HAYDEN: I object to this as not proper cross-examination.

A. There is a photograph here which shows the location of those.

MR. HAYDEN: I do not think it has been introduced in evidence. A. It has not been introduced in evidence; I know that. Identification No. 9 shows the location of the light screens.

MR. BOGLE: Q. Where are they? A. One is located on the bridge and the other on the flying bridge, on each side of the vessel.

Q. At what point from the point of measurement

you have taken as amidships, forward or aft? A. I do not understand you.

Q. You gave the beam of the ships amidships, are the light screens forward or aft of that point of measurement you have taken? A. They are a little bit forward, I think, but there has been no photograph introduced in evidence to show that.

Q. Can you give the beam of the vessel at the point where the light screens are located? A. It is practically the same.

Q. How much? A. Practically the same.

Q. What is that? A. 52.2 feet.

Q. What did you take that from? A. I remember that from the other photographs which I had.

Q. What other photographs? A. Photographs which have not been introduced in evidence, that were forwarded to me by Mr. Hayden from Tacoma.

Q. Where are they? A. They are here somewhere.

MR. HAYDEN: There are the photographs which Mr. Hayden delivered to you.

A. These light screens were about 32 feet forward of amidships.

MR. BOGLE: Q. From what document did you get that distance? A. I checked that from another photograph that shows a side view of the vessel and marked "Identification No. 10", and I have laid on this photograph the length of the vessel from the forward part of the stem to the center of the rudder-post, 377.2 feet, and I have divided that distance into two parts, which gives 188.6 feet, which gives you the amidships point of the vessel, and then I have divided by a simple proportion the distance from the bow of the vessel to the amidships point and the distance from the amidships point forward to the light-screens, which gives me 32 feet.

Q. The photograph itself does not show the location of the light-screens, does it? A. Yes, it is right there. There is one and there is the upper one on the flying bridge.

Q. What is the distance between those two screens?

A. The distance between those screens would be, I should imagine, about 8 feet.

Q. No, I mean not between the upper and lower screens, but between the starboard and port screens.

A. About 52.2 feet; the ship is parallel for that distance; in fact the screens would be outside of that. You would have the diameter of the light outside of that, which would be about 16 inches more, which would make it about 53.7 feet.

MR. HAYDEN: I object to this testimony.

MR. BOGLE: 53.7 feet between the center of the lights? A. Yes.

Q. Are you able to make that as a reliable statement from the document you have there?

MR. HAYDEN: The same objection.

A. Only from the photograph.

MR. BOGLE: Q. What I want to get at is is it a guess or is it an actual demonstration from the photograph?

A. It is an actual demonstration from the photograph, but it is not correct to an inch.

Q. Within a variance of one inch it is absolutely correct, as an actual demonstration from the photograph?

A. Within a variance of one foot it is correct.

Q. One foot? A. Yes.

Q. Mr. Dickie, have you considered the lesson to be learned from the damages on the two vessels on the assumption that the "Strathalbyn" was in motion and the "Virginian" was practically at rest? A. No.

Q. Have you studied it on the assumption that both vessels were in motion? A. No. I came to the conclusion that the "Virginian" was in motion and the "Strathalbyn" was practically at rest after studying the problem. I made no effort to prove that the "Strathalbyn" was in motion and the "Virginian" at rest.

Q. Your effort was to prove that the "Virginian" was in motion and the "Strathalbyn" was at rest?

A. No. My effort was not to prove that. My effort was to get the facts, first.

Q. Well, how did you get that fact. You had to take some assumption to start with, didn't you?

A. Yes, the assumption that I started with was that the plans of the "Strathalbyn" were correct.

Q. The plans of the "Strathalbyn"? A. Yes.

Q. You do not mean to say that this injury could not have been inflicted if the "Strathalbyn" was in motion?

A. I don't know what the injury would look like if the "Strathalbyn" had been in motion.

Q. In other words, you have assumed she was not in motion?

A. No; I came to that conclusion. The motion of the vessels was a determination that was made after the study of the problem, not before.

Q. Of course you had your problem on which you were working, to start with, didn't you? A. No, I did not have the answer. I had certain simple fundamental facts and I put one on top of the other until I came to a conclusion.

Q. You did have the answer that must be reached if you were going to testify, didn't you? You had that to start with?

MR. HAYDEN: I object to that as not either the truth or a fair question. The testimony is that he did not.

A. I might not have testified at all.

MR. BOGLE: Q. That is all right. Unless your conclusion was going to be to a certain extent in favor of the "Strathalbyn" you understood you would not be called as a witness, didn't you? A. No, that was not my understanding. Here were certain documents and photographs that were turned over to me to make a report upon and state my conclusions as to what took place, and I stated my conclusions as to what took place and was notified by telegraph that my deposition would be taken on a certain date.

Q. You understood by whom you were being retained, of course? A. Yes, sir.

Q. And you understood the theory of the "Strathalbyn's" case, didn't you?

A. Not before I had concluded my study.

Q. The submission of the question to you necessarily stated their theory, didn't it? A. Mr. Hayden had theories but which I paid not attention to at all.

Q. But you knew what they were?

A. I knew what he thought they were, but mine did not always agree with his.

Q. I understand that. What I mean to say is that you were employed to examine this data that was furnished to you and report whether this vessel, the "Virginian" struck at an angle of approximately 3 degrees?

A. No. I was employed to determine what angle these vessels struck and I wired Mr. Hayden—

MR. HAYDEN: I do not think that is necessary.

MR. BOGLE: I do not care to go into your communications with your attorney, Mr. Dickie.

MR. HAYDEN: I will admit I employed Mr. Dickie to make a study of this problem and directed him to make a report to me on it.

MR. BOGLE: What I am getting at is that you knew at the time the kind of report that Mr. Hayden would like to have, not that you colored your testimony to reach that, but you knew in advance what testimony he wanted and if you could conscientiously furnish that testimony you would be required to testify and if you could not you would not?

A. No, the proposition was not put before me like that at all.

Q. I don't mean he stated it to you but didn't you understand that was the situation, Mr. Dickie; you knew you would not be called as a witness if your testimony was unfavorable to Mr. Hayden's theory?

A. Yes; but I didn't know what Mr. Hayden considered favorable or unfavorable testimony. In fact, I don't know yet everything that Mr. Hayden considers favorable or unfavorable.

Q. I believe you stated that you had computed the displacement of the "Strathalbyn"? A. Yes, I have computed it approximately.

Q. Can you state what it was? A. I don't remember just exactly what it was.

Q. Can you state approximately the difference in the displacement of the two vessels? A. Not at the present moment. I could if I were at the office.

Q. Do you know the draughts of the two vessels?

A. I know the draughts now, yes.

Q. The length of the beam? A. Yes.

Q. The dimensions? A. Yes.

Q. And the draught at the time of the collision?
A. Yes.

Q. Was there a very great difference in the displacement of the vessels? A. There was quite a considerable difference in the displacement of the two vessels. One vessel was loaded and the other was light.

Q. Which had the greater displacement? A. The "Strathalbyn" had the greater displacement.

Q. As between the two she was the more immovable, was she?

A. Yes, as between the two she was the more immovable.

Q. The "Virginian" stood higher up out of the water?

A. Yes, the "Virginian" stood up about 12 feet higher than the "Strathalbyn".

Q. Where did the stem of the two vessels strike, taking the measurements from the beam?

A. From the photographs, the stem of the two vessels struck a little bit above the 29-foot mark on the "Strathalbyn", as near as I can make out.

Q. And what mark on the "Virginian"?

A. It is a little less than the 24-foot mark.

Q. That would indicate the "Strathalbyn" had about 4 feet or 5 feet depth greater than the "Virginian"?

A. The "Strathalbyn" was drawing 5 feet 6 inches more water than the "Virginian."

Q. You stated, as I remember, that the overhang of the "Virginian" was about 12 inches? A. Yes.

Q. At what point of the ship was that?

A. That was about from the 24-foot mark up to the shelter-deck; there is an overhang there of about 12 inches on the "Virginian".

Q. That is about the point where the stem struck, is it? A. Yes.

Q. What point of the "Virginian" entered the upper works of the "Strathalbyn"? A. The forecastle-deck.

Q. That is the highest point of contact, was it not?

A. No, the bow chock was above the forecastle-deck on the "Strathalbyn", but the forecastle-deck of the

"Strathalbyn" entered about 2 feet and a half above the middle deck—the question is wrong there.

Q. What is the overhang as between that point—

MR. HAYDEN: Don't we want an answer to that question?

A. The "Virginian" crossed the "Strathalbyn" so that the line of contact with the forecastle-deck of the "Strathalbyn" came about 2 feet 6 inches above the middle deck.

MR. BOGLE: Q. Above the middle deck?

A. Of the "Virginian".

Q. What is the overhang as between that point and the point where the stem struck? A. About 4 inches between the line of contact of the forecastle of the "Strathalbyn" on the "Virginian" and the line of contact where the stems apparently met, by the photographs, on the "Virginian".

Q. Is there any overhang on the "Strathalbyn's" stem?

A. There is about 4 inches of overhang on the stem of the "Strathalbyn".

Q. Between what points? A. From about the 18 or 19 foot mark up to the forecastle-deck.

Q. What is the overhang between the point of break on the stem of the "Strathalbyn" and the forecastle-deck, the point where the "Virginian" entered the forecastle-deck?

A. It appears to be about 2 inches, maybe 2 1-2.

Q. Mr. Dickie, I understood you to state that the wreckage of the "Strathalbyn" below the break of the stem was pushed to port? A. Yes.

Q. Do you think that is consistent with your theory that the point of contact was practically at right angles to the plates of the "Strathalbyn"? A. The point of contact was at right angles to the plates of the "Strathalbyn" at the forecastle-deck, approximately only, whereas below the 29 foot mark the "Strathalbyn" was very much thinner than she was at the forecastle deck, so that the angle of contact would be different.

Q. It would be more nearly head on, would it not?

A. It would be more nearly.

Q. Your plat shows it to be much more nearly head on?

A. More approaching head on than it would be on the forecastle-deck.

MR. HAYDEN: That is with respect to the plan of the plating? A. Yes.

MR. BOGLE: Q. The tendency would be to push the plates to starboard, would it not? A. The tendency would be to push them to port.

Q. Supposing the contact was at right angles?

A. If the contact were at right angles?

Q. It would push it to starboard, would it not?

A. Yes, if it touched the plating it would push it to starboard. The fact must be borne in mind that the stem of the "Virginian" did not touch the plating of the "Strathalbyn" below the 29-foot mark.

Q. I understand that. Any impact on the plating on the port side would tend to push it to starboard, would it not? A. Yes.

Q. At right angles it would push it back? A. Yes.

Q. And that tendency would continue until you got to an absolute head on where the tendency would not be either to port or starboard? A. If the "Virginian" struck the plating of the "Strathalbyn" square on, that is, on the port side, the tendency would be to push it to starboard, and that tendency to push it to starboard would decrease in proportion as the vessels approached more nearly head on.

Q. It would be eliminated when they met head on?

A. When they met head on the plating, the stem and the forward work would be crushed aft.

Q. There would not be any tendency to push it to port until you got practically head on, would there?

A. Providing the stem of the "Virginian" touched the "Strathalbyn," there would not be a tendency to push it to port until the vessels met fairly well head on.

Q. How do you account for the fact that this wreckage below the point of break on the stems was pushed to port?

A. Because the lower part of the stem of the "Strathalbyn" was on the starboard side of the "Virginian" and came against the frames and shellplating

and stringers that were at the back, and the side pressure of the "Virginian" against the lower part of the stem of the "Strathalbyn" pushed it over to port of the "Strathalbyn."

Q. What was the difference in the plating above and below the point of break on the stem of the "Strathalbyn"? A. Do you refer to difference in thickness?

Q. Yes, the plating and the frames?

A. The frames were the same on the "Strathalbyn"; the plating immediately above the break on the "Strathalbyn" was 18 fortieths of an inch thick and the plating below the break on the "Strathalbyn" was 18 fortieths of an inch thick.

Q. That is the first plate below? A. The first plate below; and the second plate below, the third plate below and the fourth plate below, they were all alike.

Q. How were they up above? A. The top strake just at the forecastle-deck is 14 fortieths and the next strake, the second strake down is 24 fortieths; but that plate was increased in lieu of the doubling for the hawse-pipe; if there had been no doubling there for the hawse-pipe it would have been 14 fortieths, such as indicated by identification No. 6. The other plates were 18 fortieths inches thick above the break. There are four strakes of plating above the break.

Q. What about the strength of the frames above and below?

A. The frames are the same all the way as indicated by "Identification 1," the side-frames are 6 by 3 1-2 by 16 fortieths, and the side reverse frames are 4 by 3 1-2 by 16 fortieths inches.

Q. The vessel was somewhat stronger below the break in the beam than she was above? A. No, the vessel was just the same so far as plating goes the plating was the same thickness above the break as it was below the break, referring now to two strakes immediately above the break.

Q. But above that it was 14 fortieths as against 18 fortieths? A. Yes.

Q. That is, it was weaker near the top?

A. That is, it was more liable to be crushed. It is always understood to be a known fact that all vessels

are made with a forecastle lighter than the usual structure of the ship.

Q. In the case of contact, a colliding vessel entering, with a break at the stem about midway down, the bottom part of the stricken vessel would stand as against the upper, would it not? A. The bottom part of the vessel where it is thicker than the upper part would offer a greater resistance to crushing than the upper part would.

Q. The tendency of which would be to deflect the course of the other vessel and to deflect it lower down more than it did on the upper break, would it not—in other words, it would give somewhat of a list to the striking vessel?

A. I do not get the meaning of that question. I imagine the question as I understand it, in which particular case the stem of the “*Virginian*” was entered into the superstructure or forecastle-deck of the “*Strathalbyn*” and was forming wreckage there at a short period of time before it began to form any wreckage below or came in contact with the stem below, due to the overhang in the “*Virginian*” and likewise the overhang of the “*Strathalbyn*”; so the stem of the “*Virginian*” was imprisoned, as it were in the wreckage of the “*Strathalbyn*” at the forecastle-deck before it came in contact with the stem.

Q. Before the stem struck?

A. Before the stem struck below.

Q. I think you said that the overhang at that point was about 4 inches on one vessel and 2 on the other?

A. Yes.

Q. Do you think that would counteract the tendency to sheer the “*Virginian*” or cause her to list to starboard? A. I think it would, yes.

Q. I see you have numbered the beams on your plat; where did you get the information as to the indentation on each of those beams? A. From the photographs.

Q. Take the second beam back; will you show me the photograph which shows the location of the injury there?

A. “Identification No. 14” shows beam 172 extend-

ing down at an angle from the forward wreckage and by referring to plan 329-E of the "Strathalbyn" you will notice that the beams on the upper deck are 9 inches by 3 inches by 21 fortieths, bulb angle; by referring to the photograph you will see that beam 172 is a bulb angle and that it is likewise the upper deck, so that by taking the depth of the beam as 9 inches in the photograph with a pair of dividers and spacing off 9-inch spacings from the holes, the frame-holes in the beam bracket here, you will get 3 and a fraction spaces, which you have as accurately as I could find in the office, and two of which distances you had on the 4-inch space, being the distance from the rivet to the heel of the frame, as shown on the sketch, which is made in the upper lefthand corner of drawing 329-E, and these 9-inch spacings and the fraction, plus the 4-inch distance as given by the sketch gives you 37 inches, which is marked on the drawing, on beam 172. Have I made that clear?

Q. Yes, except it is not quite clear to me how you deduce that is the second beam from the bottom.

A. In this photograph it is quite clear that this is the first beam forward of the collision bulkhead, so far as the photograph shows; so by counting the beams from the collision bulkhead—

Q. (intg) The bulkhead is athwartships, is it?

A. The bulkhead is athwartships. That extends from one side of the ship over to the other, and the beams likewise extend from one side over to the other; these two beams, there is no question about this one being forward of the bulkhead, that is beam 168 is forward of the bulkhead, which is 166, and beam 170 is forward of beam 168, because when beam 168 comes to the end of beam 170 it disappears behind it.

Q. The photograph is taken from what angle?

A. The photograph is taken from an angle approaching the vessel on the starboard forward quarter.

MR. HAYDEN: Bow or quarter?

A. Bow or quarter; and by referring to photograph "Identification 13" it will be seen that this beam which is beam 172 comes from the forward side of beam 170 which I have marked on "Identification No. 13" and

which to my mind is very clearly shown to be the beam forward of beam 170; beam 172 is the beam forward of 170, and hence this is beam 172.

MR. BOGLE: Q. You have located them all by a process of reasoning, have you? A. Yes.

Q. Back of the fifth beam is not shown on any of the photographs? A. The fifth beam, as you have designated it, is the collision bulkhead, which is 166. Now examine this photograph—

MR. HAYDEN: (Intg) What photograph?

A. (Continuing) "Identification No. 14," you will see another beam shown here on frame 164. On photograph for identification "11" we have shown here the corner of the collision bulkhead, which is frame 166. Now, by examining this photograph very closely—

Q. (intg) Which you have marked and underlined?

A. Which I have marked frame 166 C bulkhead and underlined and initialed. By examining this photograph and beginning at the aft frame which is visible, it will be seen that the aft frame is what is called a single frame; that is, it is not fitted with a reverse bar as distinguished from the next frame immediately forward of it which is fitted with a reverse bar, the frame showing up to this line, which I am marking "frame" and underlining and initialing, and the reverse bar, showing with another witness mark which I am marking and underlining; the plating is shown torn away from frame No. 162 which I have marked on photograph "Identification 11" and on the plating and holes are shown with a light coming through where the rivets were in a row vertically at a point approximately equal to a distance sufficient to cover the side of the ship between Frame 161 and frame 162. Frame 163 is missing between frame 162 and 164, and by looking over on the plating you will see the frame 163. The plating has been torn away from frame 164 and on the plating you will see the holes that were used for the rivets on frame 164, which I will mark "H 164". Frame 165 is missing at the right hand end of the photograph and by looking over on the plating you will see frame 165 still riveted

to the inside of the plating, which I am marking "F 165" with a witness mark.

MR. BOGLE: Q. How do you know that is 165 instead of 164?

A. Because frame 164 is here, at the right hand end of the photograph, and is marked "Frame 164" and is a frame and a reverse-bar. First you have a frame riveted to the shell-plating at frame 161; on the shell-plating a row of holes is shown which were used for frame 162, and you may mark these holes "H 162." Frame 163 is missing between frame 162 and 164 and by looking on the shell-plating you see frame 163 riveted to the inside of the shell-plating which is folded back and is marked "F 163." Frame 164 is a frame and reverse-bar which is in its proper place at the right end of the photograph, and by looking on the shell-plating we see the holes for the rivets where the light is showing through of the rivets that formerly fastened the plating at that point to the frame 164.

Q. How do you connect those two from the photograph?

A. By counting the spaces from frame 161. Then coming one space forward we find that frame 165 is missing between frame 164 and the collision bulkhead, and by looking over on the shell-plating we find frame 165 riveted to the inside of the shell-plating, which I have marked "F 165."

Q. You mean that you find a frame which you conclude is what you call 165? A. Yes.

Q. Now, are you sure this particular one is 165 and another one is 163? How do you tell from the photograph?

A. Because when you carry your reasoning one step further, you find that frame 166, by referring to the collision bulkhead at the right hand end of the photograph, is broken off a short distance below what appears to be the upper deck. You look over here on the photograph at frame 166 and you find a broken frame which extends down to a point about opposite the break on collision bulkhead 166, which I will mark "Top of broken frame 166"; and over here on the back of the shell-plating I will mark "Bottom broken frame 166"; the top part of

broken frame 166 and the bottom part of broken frame 166 on the shell-plating originally were joined together. When you complete your reasoning and everything checks up, then you know that the part that has gone before is correct.

Q. There is nothing on the photograph that distinguishes that one frame that you have numbered 165 from a frame you have numbered 163, except you have assumed that the displaced frame 165 is the one next 166: is that correct?

A. It is an undeniable fact that frame 165 is next to 166.

Q. When originally placed unquestionably, but it is displaced here? A. Yes, it is displaced here.

Q. You are assuming that it is next to 166 in the displacement? A. After having established—

Q. (intg) You have established that 166—

A (intg) Is correct, and that 161 is correct; consequently those between must be correct.

Q. But as between 163 and 165, I do not catch your reasoning; as far as I can see you have named them arbitrarily.

A. The frame 161 is plainly shown on the photograph, likewise frame 166 is plainly shown on the photograph, the collision bulkhead, the two frames coming opposite; between those two frames 161 and 166 there are on the vessel four frames to be accounted for. We find two of them at the right hand end of the photograph between frame 161 and frame 166 and we find the other two on another part of the photograph between frame 161 and 166 on the back of the shell-plating; in between these two frames 165 and 163, which we find in the back of the shell-plating are two rows of rivet holes which correspond to corresponding rivet-holes on frames 162 and 164; consequently we conclude that the two frames 163 and 165 as marked on the photograph originally belonged in between frame 162 and 164 and 164 and 166 respectively.

Q. I do not on the photograph find any rivet-holes between the frames marked 162 and 164, the rivet-holes—

A. (intg) The frame is missing between frame 162 and frame 164.

Q. So there are no rivet-holes or other marks on the photograph between these frames numbered by you 162 and 164 which enable you to identify the outline of another frame which you have marked 163. Isn't your marking of 163 arbitrary?

A. There are two rows of rivet-holes in the photograph marked "H 164" and "H 162" on the inside of the shell-plating.

Q. That is your assumption that those rivet-holes belong to the frames 164 and 162?

A. I assume that the rivet-holes marked "H 162" belong to frame 162 because both of them are adjoining frame 161, the frame 162 adjoining frame 161 to the right of frame 161, and the rivet-holes adjoining frame 161 to the left of 161.

Q. You have marked certain rivet-holes "H 164", that is located a very considerably distance to the left on the photograph of frame 164. What I want to know is how you determine from this photograph that the rivet-holes belong to frame 164? A. Bulkhead 166 is plainly shown here, and on the bulkhead 166 at the right hand end of the photograph the frame is shown broken off.

Q. I can understand that might enable you to identify 166, but I am talking about 164.

A. Right adjoining 166, the frame between 166 and 164 is missing, and over here on the shellplating we find a frame 165—

Q. (intg) A frame you have named 165?

A. I have named 165, because it is adjoining broken frame 166; we have now located absolutely and positively 165 due to the fact that it is adjoining 166. By a previous process of reasoning we have located frame 163. Now we find a row of holes between frame 163 and frame 165 which run in the general direction of frame holes and as frame 164 is in its proper place on that photograph we come to the conclusion that frame holes labelled "H 164" were originally used to pass the rivets through for frame 164.

Q. Would you mind restating the process by which

you identify frame 163? A. Adjoining frame 161 we have frame 162, and on the left of frame 161 we have a row of holes in the plating marked "H 162". As the row of holes adjoin frame 161 on the left and frame 162 adjoins frame 161 on the right we come to the conclusion that the row of holes marked "H 162" originally were used to pass the rivets through for frame 162. Between frame 162 and frame 164 there is a frame missing. To the left of the row of the holes "H 162" we find a frame riveted to the inside of the shell-plating. Due to the fact that the row of holes correspond to frame 162 we come to the conclusion that frame 163, which is shown on the inside of the shell-plating in the original state of the ship was placed between frame 162 and frame 164 in its proper place on the ship.

Q. Why do you say that the rivet-holes that you have marked "H 162" belong to frame 162, there being the frame 161 between the rivet-holes on the photograph and the frame you have marked 162? A. Frame 162 adjoins frame 161.

Q. On the right? A. On the right.

Q. The rivet-holes are on the left?

A. The rivet-holes are on the shell-plating which is folded back. The original shell-plating of the ship which formerly occupied its proper place on the side of the vessel, in this photograph "Identification 11" is shown folded back, disclosing to the observer of the photograph the inside of the shell-plating; consequently there is a fold or a crease in the shell-plating on a line down about to 161, and as the shell-plating is folded back of frame 161, the row of holes necessarily must belong to frame 162.

Q. I gathered, Mr. Dickie, from your statements, that you have worked up your theory of the facts from a similar study of these various photographs? A. Yes.

Q. Of course if you had seen these vessels and made a careful examination of the accident and damage done to each, you would be much more positive in your deductions, wouldn't you?

A. I would not have done it by this method at all. When I see the damage to a vessel in cases of this kind I make an accurate drawing of the ship, of every break

and of the bend and twist of the plates that are material to the case.

Q. Many things on these photographs are not very clear, are they? A. I found the photographs quite clear to give me a process of reasoning.

Q. But it is a fact that many things appear on the photographs which might mean one thing or a different thing: isn't that so? A. Being familiar with the construction of the ship anything that I see on photographs I know right away what it is.

Q. Well, your identification there of the rivet-holes, the line of rivet-holes as being the rivet-holes of a frame between what you have numbered 162 and 164 is to some extent a guess, is it not? A. No, because the spacing of the rivet-holes is shown quite plainly.

Q. I don't mean that you are guessing that it is a rivet-hole, but that it is a rivet-hole belonging to that particular missing frame, is a guess, isn't it?

A. No, it is a process of reasoning, it is a deduction, not a guess.

Q. It is not a certainty?

A. In my mind it is an absolute certainty.

Q. Well, in the crush and jam of this wreckage, it might have been the rivet-holes of a different frame, might it not? A. It is possible but not probable.

Q. Most of the facts that you have based your reasoning on are deduced in the same way? A. No.

Q. That is, the probability of a certain thing on the photograph meaning a certain thing that you apply it to?

A. To my mind the things on the photographs are absolutely the things which I have marked them. I know that would be a fact even though I might not be able to explain it definitely. I know these things to be a fact.

Q. That is, you believe them to be

A. No, I know them.

Q. It is your interpretation of the photographs?

A. It is not an interpretation, it is an actual fact.

RE DIRECT EXAMINATION.

MR. HAYDEN: Q. Now, Mr. Dickie, I just want to ask you a question or two. When I make my cross-

examination along this line, I want it to be understood I do not waive my objection to the cross-examination with respect to the distance between the lights. You were asked, Mr. Dickie, what was the distance between the lights as compared with the beam of the ship and you said, as I understand it, without looking at the photograph, that you thought it would be 53 feet 7 inches?

A. 53 feet 7 inches.

Q. Now, I want to call your attention to photograph No. 8 and ask you to look at the lower bridge and the upper bridge, the deck structure and also at photograph for identification No. 9 and to look at the bridge structure, and to a photograph I am now marking for identification 6, and also look at the bridge structures and see whether or not, now examining those photographs, the light-boxes appear to be outside or inside of the outside parts of the bridge, and whether or not you took that into consideration when you made your answers heretofore?

A. In examining photograph for identification "No. 6", the light-box appears to be even with the edge of the bridge and flying-bridge. They are not projected outside of the bridge, which I took into consideration the first time. The reason for that being probably that the vessel—

Q. (intg) I do not care for you to go into probabilities. Is there any photograph that has ever been submitted to you that permits of your measuring the distances between the light-boxes, the inside of the light-boxes, with accuracy? A. No, sir.

MR. BOGLE: Q. Do the plans of the "Strathalbyn" which have been submitted at the taking of this testimony enable you to determine the distance between the lights?

MR. HAYDEN: In connection with that, I want to suggest that you should have the data as to the tumble home of the ship taken from those plans, don't undertake to make a calculation of it, but simply state the facts as shown.

THE WITNESS: The plans of this vessel only extend to a point about 8 feet aft of the mast, and unless I had some other plans I would not be able to take the

width of that, the exact width of the vessel at that point.

MR. HAYDEN. Q. Without knowing whether or not there was a tumble home on the ship above her beam you would not be able to tell the width between the lights, would you?

A. Not knowing it exactly, no. I know she had a tumble home because all of the vessels of that type are built with a tumble home.

Q. Now I understand you to say that the beam of the ship is 52.2 feet? A. Yes.

Q. And that beam is measured across the ship some feet aft—I have forgotten the exact number of feet aft that you said,—from the position of the lights as you determined it from “Identification No. 10”? A. Yes.

Q. Why is the beam of the ship measured under deck or over deck and under which deck if it is under deck at all?

A. The beam of this ship will be measured at the widest part of the ship amidships.

Q. Under deck or over deck. A. In this ship it will be taken about below the main deck, and the vessel will tumble home from a point below the main deck up to the upper deck.

Q. The way you arrived at the distance of 53.7 feet as the distance between the center line of the lamps was by adding a distance to the beam of the ship and making no allowance for any tumble home on the ship?

A. And making no allowance for tumble home—I see by this photograph that process was wrong, that the lights are on a line with the side of that vessel, not projecting beyond the side of the vessel.

Q. There are no photographs here that show whether those lights are inside or outside of the rail, are there? That is the bulwark rail of the main deck?

A. Identification No. 9 would indicate that the light is about on a line with the bulwark rail of the vessel.

Q. But you cannot tell from that whether it is inside or not, can you? A. No, I can't tell exactly.

Q. Then as I understand it, you had made prior to this examination no attempt to determine the distance between the light-screens on this vessel and when the question was asked you you made not attempt from the

photograph to do so, but simply drew mental conclusions based on the beam of the ship? A. Yes.

Q. In connection with all of the rest of your testimony as to the damage, direction of impact and so forth, I understand that you did make actual measurements and studies for the purpose of determining that question? A. Yes.

Q. From the photographs and plans that have been introduced in evidence? A. Yes.

Q. I want to ask you, Mr. Dickie, if I ever indicated to you directly or indirectly by any process of inference that allowed you to arrive at any conclusion that I might have arrived at by a study of these plans?

A. No, sir.

Q. I will ask you if it is not a matter of fact that I asked you to take this question entirely independent of anything that you had heard about the case and to make a study of it solely from the information that was given to you for the purpose of arriving at the angle of approach from the cut through this vessel? A. Yes.

Q. I will ask you whether or not anybody else ever made a suggestion to you that you follow the conclusions that had been arrived at by me or anybody else in connection with the angle of approach of that vessel?

A. No one made any suggestion one way or the other.

Q. And have you followed anybody else's suggestion? A. Absolutely not.

Q. Is this conclusion of yours based entirely upon an independent study of these plans, photographs and drawings that have been submitted to you? A. I have followed no suggestions from anybody. These plans 329-E and 330-E are made from my own deductions from the data as handed to me and from the photographs handed to me.

Q. I want to call your attention to photograph for identification 14, and ask you, referring to the upper part of the photograph marked "Strathalbyn's Stem" if in any other photograph which is in evidence you can find the other adjoining piece of that upper part of the stem on the top strake of the "Strathalbyn"? A. On photograph for identification 11 will be found the piece

of the stem which in the original construction of the ship was immediately below the piece of the stem which is shown on photograph for identification 14 as being attached to the top strake; and by examining photograph for identification 11, it will be noticed that there is a streak of white paint across the upper end of the piece of the stem which is marked on the photograph P. S. S.—

Q. Photograph for identification 11?

A. Photograph for identification 11 has P. S. S., and by examining "Identification No. 14" it will be seen that the piece of stem marked "Strathalbyn's Stem" is broken off just above this white streak of paint which did pass around the vessel in its original condition.

Q. Can you determine anything from the rivet holes in that piece of the stem as to whether or not they met and joined the piece that you have just described?

A. It will be noted that the rivet-holes are the same spacing in "Identification 11" as they are in the photograph for "Identification 14". What I mean by the same spacing is the same character of spacing, in that they are laid off in the form of zigzag rivetting, that is, the rivetting of one row is half way between the rivetting of the other row. "Dickie identification No. 11" shows the port side of the stem whereas "Dickie identification No. 14" shows the starboard side of the stem; and I am unable to determine from the half hole which appears in "Dickie identification No. 11" at the top of the piece of the stem marked "S. P. S., whether that fits on to the bottom half hole of the "Strathalbyn's" stem on "Dickie identification No. 14".

Q. Now, taking "Identification No. 11", the lower part of the stem with the piece of white paint on it, marked "P. S." and also with the mark "S" can you find where the other part of that stem is in any of the photographs that you have?

A. Yes. In "Dickie identification 11" you will find another piece of stem marked "Stem-bar", and by examining that piece of stem very closely you will notice that there are five holes and the half hole between the top end of the bar and the upper edge of the streak, the plating to which the upper end of the bar is attached, and by examining the lower end of the piece of stem

marked "S. P. S." you will notice that there are five holes and a half hole between the lower edge of the streak on the piece of stem marked "S. P. S." and the bottom half hole of the piece of stem which is marked "Stem-bar".

Q. Now, had the "Virginian" struck the "Strathalbyn" so that an extension of the lines of the two vessels, the lines of the keels of the two vessels would have been parallel to each other—that is, so that they struck directly head on, and had the "Strathalbyn" a list of 6 degrees to starboard, and had the stems of the two vessels crossed each other at or about the point known as waterline No. 29 on the "Strathalbyn", and had the "Virginian" entered the "Strathalbyn" proceeding along the line when the vessels were approaching each other directly head on, would it have been possible for this part of the stem shown on the top of "Dickie identification No. 15" to have remained in the position as shown in that photograph, or would it have been cut away and carried to the other side of the vessel? A. I think that the top piece of the stem shown on "Dickie identification No. 15", if it were not crushed flat by the impact of the stem of the "Virginian", and the stem of the "Virginian" had cut into the "Strathalbyn", that the piece of stem shown on "Identification No. 15" would have been pushed over to starboard and would have been joined in the other wreckage on the starboard side.

Q. Had the "Virginian" and the "Strathalbyn" been approaching each other and entered each other directly head on, considering the size of the two vessels, is it your opinion that they could have sheered off from each other in 32 feet so that they would have collided and made a cut anything like the cut shown in that photograph? A. I do not believe it is possible.

RE CROSS EXAMINATION.

MR. BOGLE: Q. Mr. Dickie, what is the beam of the "Virginian" at the point 32 feet back of the stem?

MR. HAYDEN: On what part of the "Virginian"?

MR. BOGLE: On the 20 foot line.

MR. HAYDEN: The 20 foot line of the "Virginian"?

MR. BOGLE: Yes.

A. The only line that I have with me on this drawing is a 23-foot 6 line.

Q. That is near enough.

A. If that is close enough the beam at that point as taken from the plans of the "Virginian" submitted to me is about 28 feet 2 inches.

Q. The facts that the hulls of the two vessels below the point of break in the stems were starboard to starboard would necessarily inevitably sheer the "Virginian" so as to make the cut bend toward the port side of the "Strathalbyn", would it not? A. Yes, it would.

Q. You have no data that would enable you to determine with any certainty just what the amount of that sheer would be, have you. A. No.

Q. In answer to my question you said that the distance between the lights was 53.7 feet. On your re-direct examination I understand you withdrew that statement?

A. That statement is not quite correct. I assumed that the lights were outside of the bridge but by examining the photograph I find that they are not outside of the bridge.

Q. Can you from the data that you have determine what was the distance between the lights, approximately?

A. They were about 52 feet, or the beam of the ship. The plans that have been furnished do not extend far enough aft to give me the accurate measurements.

Q. The complete plans of the "Strathalbyn", if they had been furnished, would have given you the exact distance, would they not? A. Yes, they would.

Q. You are not able to give them exactly because you have not the complete plans of the "Strathalbyn"?

A. The only plan that would give me that would be the plan of the amidships section, and the plan of the amidships section in this particular case, except to determine that one point of the lights is immaterial.

Q. I understand, but it has not been furnished?

A. Not to me, no.

Q. The builders have complete plans of these vessels, haven't they? A. Yes.

Q. Have they plans which would show the exact distance between those lights? A. Yes.

FURTHER RE DIRECT EXAMINATION.

MR. HAYDEN. Q. Mr. Dickie, in the construction of a vessel, in the manner of placing the light-boxes on the bridges, isn't it a matter of fact that the light boxes, when they are so placed, do not conform to the inch to the plan laid down in the ship? A. The construction of the ship out to the point of the back of the light, for example, examining "Photograph for identification No. 9"—when the drawing for the bridge was made, the distance from the center line of the ship to the end of the wind-break on the bridge would be given on the plan, and it would then only be necessary to add the depth of the light in order to get a very accurate measurement of the light from the center line of the ship, or doubling that distance you would get the total distance between the two lights.

Q. The plans might call for a certain width of the bridge around, that is, the railing around the bridge, and in the construction of the railing the carpenters, whoever does the work, might not do it with absolute accuracy in accordance with the plans; in other words, that is not, is it, or is it not, one of the parts of the ship that would require the great accuracy that might be required in connection with the cutting of the rivet-holes or something of that kind in the plates? A. Great accuracy in this particular case of the width of the bridge would not be necessary, but I think you will find that they would work very close to the plans; in fact it must be borne in mind that in working to a set of plans, the particular plan which you have in front of you is only part of a system of plans by which the whole ship is built, and if you depart from one plan you necessarily must go and see how that affects all the other plans.

Q. That statement would be true when you started from the keel up? A. Particularly true.

Q. When you are putting the railing around the bridge it would not be so important?

A. It would not be so important.

Q. And the accuracy of distance between the lights could best be determined by an actual measurement of the distance between the lights on the ship as she is finally constructed?

A. That is the absolute and positive method of getting the accurate and positive distance between the two lights.

Q. Would you say that the "Virginian" was a blunt ship or a fine ship? A. The "Virginian" is a fairly fine ship for a cargo ship; she is not quite as fine for a passenger ship.

Q. Do the plans that have been submitted of the "Virginian" show her decreasing width as you go down from the 23-foot line to her bottom at the bow?

A. Yes, the plan for "Identification 3" in Section C will give you the idea.

Q. Take Section C here, how far is that aft from the stem of the "Virginian"—you are referring to "Identification 3"? A. Yes, about 25 1-2 feet.

Q. Can you give just a little pencil sketch down here of how the bow of the "Virginian" would look going back? I mean what kind of a line it would make, say at a distance of 5, 10 or 25 feet back? A. Naturally there will be a little inaccuracy on account of the shrinkage in paper in printing. I have marked on the drawing the approximate shape of frame 193, frame 196, frame 200, frame 202 and frame 204.

Q. The perpendicular line to which these curved lines converge at the bottom would be the stem?

A. That is the center line of the stem looking at the bow of the vessel.

Q. As I understand, looking at the bow of the vessel?

A. Yes. I have also marked down frame 198 as that seems to be halfway between two frames.

FURTHER RE-CROSS EXAMINATION.

MR. BOGLE: Q. Mr. Dickie, was there any cut or break in the "Strathalbyn" below the point where the stems crossed?

A. I don't know. I saw somewhere, I think it was on Mr. Jack's plan—that shows the point where the stem is renewed. This "Dickie Identification No.

2" shows that the stem was renewed from the 14-foot waterline to the top, so that the distance between the 14-foot waterline and the 29-foot waterline, where the actual break occurred, is 15 feet, which would lead me to believe that the pushing of the "Strathalbyn's" stem over to port had probably spoiled the stem for use on the vessel down to a point somewhere near the 14-foot line.

Q. There is nothing to indicate that any part of the "Strathalbyn" except her stem was damaged below the point of contact of the stems?

A. Except the photograph "Identification No. 18" which shows that the two plates extending from the 29-foot line down to the 24-foot line and the next plate below that again on each side of the vessel from the 24-foot line down to about the 19-foot line, are actually shown damaged in the photograph. The plates are shown on "Photograph for identification 18" as being buckled at the stem; the four plates are shown buckled in the photograph. Beyond that the damage is below the water and you cannot see it in the photographs.

Q. You have nothing to indicate, to show whether there was any other damage below the point of contact of the stems or not? A. Nothing except "Identification No. 2", Mr. Jack's plan, which gives the repairs.

Q. What was the beam of the "Strathalbyn" 10 feet back from the stem? A. Which particular deck do you refer to now?

Q. Take the main deck?

A. At the main deck the beam of the "Strathalbyn" 10 feet back from the stem is about 12 feet 4.

Q. What is it 20 feet back? I mean what would be the draught from the main deck?

A. The draught from the main deck or the height from the main deck to the bottom of the keel, which is the same thing, would be about 28 feet 9 inches.

Q. The "Virginian" struck the stem then of the "Strathalbyn" just above the main deck? A. Just above the main deck.

Q. Does the vessel widen or narrow from the main deck down?

A. She narrows from the main deck down.

Q. The main deck is the broadest beam she has?

A. No, the forecastle deck is the broadest beam she has, and she gets no narrower from the forecastle down to the upper deck and narrower again to the main deck.

Q. Does she narrow sharply or has she a round bottom?

A. At the forward frame she narrows pretty near a straight line with a short kink at the fore-foot.

MR. HAYDEN: I want to introduce these other photographs that have been marked for identification, in evidence.

MR. BOGLE: These papers that were produced by libelant in response to notification of the claimant, that he would require the production of the plans of the "Strathalbyn", if produced, we offer them in evidence.

MR. HAYDEN: I think they are all in, offered by us.

(Filed April 23, 1914.)

DEPOSITION OF CAPTAIN JAMES BURNS,
on behalf of Libelant.

BE IT REMEMBERED, that on the 26th day of May, 1914, at nine o'clock a. m. on said day, before the undersigned, appeared Mr. W. H. Hayden, proctor for libelant, and Mr. Lawrence Bogle (of Messrs. Bogle, Graves, Merritt & Bogle), proctor for respondent, claimant and cross-libelant; whereupon the following proceedings were had:

It is stipulated that the testimony of the witness, Captain James Burns, may be taken at this time before and reduced to longhand by Earl E. Richards, and may be used and introduced in evidence for all purposes in this case, subject only to the objections made at this time as to the relevancy, competency, or materiality of the testimony; and it is further stipulated that the signature of the witness be waived and that the deposition need not be read over to him.

JAMES BURNS, having been produced as a witness on behalf of LIBELANT, and having been first duly sworn to tell the truth, the whole truth and nothing but the truth(testified as follows:

Q. (Mr. Hayden) Captain, you are the same witness who was examined in this case before, and were, at the date of the collision between the "Strathalbyn" and the "Virginian", the master of the steamer "Flyer"?

A. Yes.

Q. Captain, in this case one L. Crawley testified that he was in the pilot house of the "Flyer" on the voyage from Seattle to Tacoma, and when he was between Pully Point and Robinson Point the "Strathalbyn" was approaching, and he testifies as follows: "Q. You say that Captain Burns was in the pilot house with you A. Yes sir." Is that statement true, or otherwise?

A. Oh, yes, yes.

Q. You were in the pilot house?

A. Yes, in the pilot house.

Q. (Reading) "Q. Was he in the pilot house when you passed the 'Strathalbyn'? A. Yes sir, he was there." Is that statement true, or otherwise?

A. That is true.

Q. (Reading) "He"—referring to you—"kind of got kind of nervous at the time we were going by the 'Strathalbyn' too." A. That is not true.

Q. That is not true. Mr. Crawley is asked, "When was this, Mr. Crawley—when you were abeam of her?" And he says "Right abeam." Were you nervous when the "Strathalbyn" went by you right abeam? A. No.

Q. Is that statement true or not true?

A. Not true.

Q. He was asked, "Did he make any remark about this side light?" He answer, "He could not see no side lights at all." Did you make that remark? A. No.

Q. Did you make any remark of that kind?

A. No statement of that kind at all.

Q. He was asked, "How did you know that he"—Captain Burns he means now—"didn't see the side lights?" He answered "He made the remark, he said 'She has not got no side lights, she has not got no light burning.'" Did you make that remark?

A. No remark of that kind at all.

Q. Did you make that remark at any time?

A. No time at all.

Q. Did you make any remarks like that or anything like it? A. No, nothing like it at all.

Q. He was asked, "Was that the time he seemed to get nervous?" He answered, "Well, he was a little nervous at the time, yes." He was asked, "You say he got nervous?" Answer, "He drops one window down and the other comes down, three windows come down, one window after the other". State whether or not that is true? A. Not true.

Q. He is asked this question, "That was all the remark he made was it?" And he answered, "That is all the remark. He says 'Those ships are getting close together,' something like that. He just made the remark. He didn't have much to say outside of dropping the windows down kind of lively." Did you make any remarks about those ships getting close together?

A. When they blowed signals I says to myself, "They are getting close together," that is all.

Q. What signals do you refer to?

A. The danger signals. I didn't have much time, they were together before I could say it.

Q. Then he says, "He didn't have much to say outside of dropping the windows down kind of lively." State whether you dropped the windows down kind of lively, or not.

A. No, I never dropped the windows down. We got back to the ship.

Q. You got back to the ship, you mean you were busy—

A. (Interrupting) When I got back to the wreck.

Q. Then you dropped the windows down?

A. Sure. No excitement about me at all.

Q. What is the fact, captain, as to whether or not you took any particular notice, as you now remember, to see the red light on the "Strathalbyn"?

MR. BOGLE: Oh, I object to that. The witness testified some two years ago positively on that point.

Q. (Mr. Hayden) Go ahead, captain.

A. Well, it is just the same as I testified to, exactly.

Q. (Mr. Bogle) Do you remember what that was, at this time, captain?

A. I didn't take particular notice of the side lights at all; I never took any notice of it at all whether—

Q. (Mr. Hayden, interrupting) Now, captain, on the 18th of January, 1912, you appeared before the inspectors— A. Yes.

Q. (Continuing)—and gave you testimony, in Seattle? A. Yes.

Q. And before the inspectors, about this collision?

MR. BOGLE: Do you claim that this is in rebuttal of any testimony, that you are taking now about this before the hearing?

MR. HAYDEN: You took your testimony as to this witness after I had agreed with you that the testimony was all closed.

MR. BOGLE: That testimony was in rebuttal of some of yours, but this is going back to the question of this side light, when the captain has testified in the case, two days before the trial.

MR. HAYDEN: You didn't put your witnesses on before I closed my case.

MR. BOGLE: No.

MR. HAYDEN: And I have a right to contradict their testimony, if it is to be contradicted; I have a right to at least come back; I have the closing of the case, I believe from my standpoint, is what I am trying to do.

MR. BOGLE: You claim this is in rebuttal, then, do you?

MR. HAYDEN: Yes, I claim this is in rebuttal to the testimony that you have put in.

MR. BOGLE: We can keep this up in a circle forever, you know.

MR. HAYDEN: That is what I thought when you put your witnesses on.

Q. (Mr. Hayden) Captain, on page 96—

MR. BOGLE: (Interrupting) Are you going into the question of those side lights? If you are, I will go upstairs and get the captain's testimony.

MR. HAYDEN: Here it is, you may use it.

MR. BOGLE: I mean the testimony he gave previously.

MR. HAYDEN: I just want to ask him what he testified to before the inspectors.

A. The inspectors is what I said—

MR. HAYDEN: (Interrupting) I would just as soon let you read this into the evidence, just what it is, instead of asking the captain about it at all.

THE WITNESS: That is straight, that there.

Q. (Mr. Bogle) Is the testimony you gave in the case straight, too? A. Yes, sure.

Q. (Mr. Bogle) Why the necessity of changing it? A. No, I don't want to change it, no.

Q. (Mr. Bogle) What is the necessity of going into it? I can't see.

A. Everything I gave in testimony is straight.

MR. HAYDEN: I want the record that he gave before. He gave his testimony before the inspectors.

MR. BOGLE: On what grounds do you go back and take the testimony—

MR. HAYDEN: (Interrupting) This is a question of veracity of this man as against the other man. This is a question of a statement that he made before this man was ever called and a few days after the collision occurred and a few days before he gave his testimony in this case. This is going into the veracity of this man as against the veracity of another man.

MR. BOGLE: You have gone into the —

MR. HAYDEN: (Interrupting) I want to show the statements that he made heretofore, to corroborate the statement that he is making now.

MR. BOGLE: You have gone into every statement that this man attributed to Captain Burns, and he has testified as to every such statement. Now, I can't see any object of your reading into the record or going over the testimony taken before the inspectors, unless it is for the purpose of contradicting your own witness.

MR. HAYDEN: Simply for the purpose of showing that Captain Burns is making a consistent statement now, that was consistent with the facts as he stated them on the 18th of January, 1912.

MR. BOGLE: No one is claiming Captain Burns has not testified positively and correctly according to

his own knowledge in this case. I am not contradicting Captain Burns. I think he has told the truth as he saw it.

THE WITNESS: Just exactly.

MR. BOGLE: And why should you do it? That is what I can't see.

THE WITNESS: Just the way I saw it, it is there.

MR. BOGLE: Certainly, you testified captain, I believe just fairly and honestly as you saw things.

THE WITNESS: This man giving that testimony, that makes a God damn fool out of me, that is all.

Q. (Mr. Bogle) Captain, have you read his testimony, or have you talked with Mr. Hayden about it?

A. I have talked to—Mr. Hayden told me about it, which I got sore about him telling me about this. Such a thing never occurred.

Q. (Mr. Bogle) Did you read the man's testimony?

A. I read it, yes—Mr. Hayden read to me, sure.

MR. HAYDEN: I just want to put this statement into the record:

Q. (Mr. Hayden) This was what was testified to before the inspectors, was it, captain: "Well, have you any reason to believe that the red light was not lit?"—

MR. BOGLE: I object.

Q. (Continuing) Answer, "No sir, I don't know, sir, whether it was lit. I didn't see any light there at all." Is that what you testified to?

A. That is, exactly, what is on there.

Q. I want to put this question in: "Was the green light of the 'Strathalbyn' as good a light as the ordinary burning side light? A. Yes sir. It seemed to me to be just like an ordinary oil light would be." That is a statement you made, is it? A. Yes, sure.

Q. Another question was asked by Mr. Whitney: "Were the white lights of the 'Strathalbyn' steady lights, or were they unsteady, flare up and go down?" And was this your answer, "Well, they looked to me to be steady all right, sir." Is that as you now recollect it?

A. Yes, sir.

Q. And it was your answer at that time? A. Yes.

CROSS EXAMINATION.

Q. (Mr. Bogle) You don't mean at this time to con-

tradict any testimony you have given in this case, do you, captain?

A. No, I don't mean to contradict anything at all. I want everything right.

Q. Certainly. I am not trying to contradict your testimony. Captain, when was Mr. Crawley's testimony first called to your attention?

A. Why, Sunday Mr. Hayden came down.

Q. Mr. Hayden took a trip with you on the "City of Everett" Sunday, didn't he? A. Well—

MR. HAYDEN: I will admit that, and I went over the testimony with him thoroughly.

MR. BOGLE: Just a minute. I will get it out of the captain.

MR. HAYDEN: I admit it.

Q. (Mr. Bogle) He went over that testimony with you, didn't he?

A. Yes, he went over it with me.

Q. Did he read all of Mr. Crawley's testimony to you? A. Yes.

Q. The entire testimony? A. Yes.

Q. Did you see the record so that you know whether he did?

A. Well, he read it all, as far as I know. Of course I didn't want to hear any of the rest of his testimony, only I wanted to hear what he had to say about the pilot house and me getting excited; that is the only thing I was interested in. The other part of it, I didn't care anything about it at all, I didn't want to hear it.

Q. You know Mr. Crawley, don't you?

A. I know him. I have had him work for me, yes. And he has got no right to come around here and make such a play as that for me, you know, because I ain't running—or letting any watchman or quartermaster or anybody run my boat, because I am master of my own boat, and that is understood. I don't talk with the quartermaster at the wheel, or pass any remarks to the quartermaster about other ships, or talk to him. I want him to pay attention to his work. I am running the ship, and I don't let no quartermaster run ships for me, or watchmen, whoever they may be.

Q. Did you understand, from your conversation

with Mr. Hayden, that he claimed in any way that you were consulting him about running the ship?

A. Mr. Hayden—

MR. HAYDEN: Consulting whom?

Q. (Mr. Bogle) That Crawley was consulting—you were consulting Crawley about running the ship?

A. No, but the testimony—seemed that he was at the time running the ship—helping me run the ship—when he would make a statement of that kind.

Q. I think you entirely misunderstand his testimony.

A. Well, that is the way—

Q. (Interrupting) Did Mr. Hayden tell you any of the quartermasters had changed their testimony in this case?

A. No, not a bit, only this testimony he gave that I got excited and singing out “No lights” and which I never did.

Q. You have talked with Mr. Joshua Green about this matter, haven’t you?

A. Oh, yes, I have talked to him.

Q. You told him what Mr. Hayden had said to you, didn’t you?

A. Told him what Mr. Hayden had said?

Q. Yes, about that quartermaster’s testimony?

A. No, I—

Q. (Interrupting) You talked to Mr. Green and Mr. Burns both?

A. No—I talked to Burns. I reported it when Mr. Hayden came down. He says, “You can go”, he says, “any time he has got a subpoena before you get off with the boat.”

Q. Did he tell you anything about what Mr. Hayden had said to you on this trip to Everett Sunday?

A. No.

MR. HAYDEN: Did he tell—who, Burns tell him what I said?

Q. (Mr. Bogle) Did you tell Joshua Green or Mr. Frank Burns?

A. I told Mr. Burns what the quartermaster had said, yes; sure I did. I went to keep Mr. Burns posted, just to let him know just that I am telling the truth in this fact, not a lie one way or the other.

Q. No, nobody has even intimated that; I certainly never have.

A. No. I was kind of glad Mr. Hayden did come down and speak to me about it.

Q. Did you think there was anything in Mr. Crawley's testimony which reflected in any way upon your ability as a master?

A. It certainly did.

Q. That is the way you understood his testimony?

A. That is the way I understood his testimony. Take it in your case, if you got excited and rattled at your business you would think it was foolish.

Q. He didn't say you were rattled, captain.

A. Well, it seems to me so.

Q. All he said you did was to put down the windows and made some remark about it having no side lights just when you were abeam of her.

A. The testimony don't say that—the testimony, the way Mr. Hayden read it.

MR. HAYDEN: The testimony says just exactly what I read to you, captain, just now.

THE WITNESS: Yes, that is it, just the way I think about it.

MR. HAYDEN: I read it out of the record to you just now.

Q. (Mr. Bogle) (Reading) "He kind of got kind of nervous at the time we were going by the 'Strathalbyn,' too"—

MR. HAYDEN: Don't you call that getting excited?

Q. (Continuing) —do you think that reflects in any way upon your ability?

A. I think it does. Don't you?

Q. I don't, captain, not in the least.

A. A man that has charge of three or four hundred passengers on a ship, and a man to make a remark that I get nervous with them, it reflects on my living. Who wants you if you get nervous when you get in a pinch?

Q. You were not in a pinch, you were abeam of her, passing her. A. No, but—

Q. (Interrupting) You were abeam of her, passing her; you were in no danger.

A. I know where I was all the time.

Q. But I say there was nothing that reflected on your ability.

A. That testimony does, though, to me.

Q. You misunderstand it, captain, you entirely misunderstand the testimony. You didn't see any side light on the "Strathalbyn," did you?

A. I didn't notice any.

Q. Did you look for it, captain?

A. I didn't look for it, no sir.

Q. You didn't look at all?

A. No, I didn't look at all. I seen his range lights.

Q. She didn't have range lights—you know that.

A. Well, I know she did.

Q. No.

A. Well, that's all right now. I know she did.

Q. Well, captain, her master and pilot—

A. (Interrupting) That's all right.

Q. (Continuing) —testify she did not.

A. What they say and I say is two different things. So you can take that from me. What I says to the inspectors is—testimony will tell you the same thing there.

Q. Captain, if there had been a port side light burning on the "Strathalbyn", do you think you would have seen it?

A. Well, I might have seen it and I might not, I might not have noticed it.

Q. Do you think it likely that you would have noticed it, captain?

A. Oh, yes, lots of things happens about—

Q. (Interrupting) What is your honest opinion as to whether or not she had a side light burning—port side light?

A. Well, it may have been burning and I would not have seen it or noticed it; that is my opinion of it.

Q. So you did not look for it, captain? A. No.

Q. Is that your testimony now, that you did not look for it? A. Well, I didn't notice it.

Q. Captain, did you consider that those range lights which you saw were good lights or dim lights?

A. As for lights, fairly good, I could see them. I never took particular notice whether they were bright, dim, or any color; I could see them.

Q. How far away do you think they were when you saw them?

A. Oh, a mile and a half or two miles or more.

Q. Or more? A. Yes.

Q. And after you saw them, how long was it before the two vessels were abeam?

A. Before the two vessels were—

Q. (Interrupting) The “Flyer” and the “Strathalbyn” were abeam?

A. Well, I should judge about probably five or ten minutes.

Q. Do you think it was as long as that? A. Yes.

Q. If you testified differently in your other testimony, would that be nearer correct?

A. Yes, it would. Of course two years is a long time.

Q. Do you remember how far you were past the “Virginian” when you saw them?

A. Well, let’s see now, how far—I think about three—two—300 feet or something more than that.

Q. Ahead of her I mean?

A. Yes, about seven points astern more or less.

Q. And you think you were only two or three hundred feet ahead of her?

A. Something of that kind.

Q. If you testified in your former testimony that you were an eighth of a mile ahead of her, would that be nearer correct?

A. Yes, somewhere like that—more or less.

Q. And you think it was at least five minutes from the time you saw the light—

A. (Interrupting) Something of that kind, probably more.

Q. How long was it when you passed the “Virginian” before you saw the light, in time?

A. Before I saw the “Virginian”?

Q. No, after you passed the “Virginian,” how long was it before you saw the “Strathalbyn’s” lights?

A. Oh, I saw the “Virginian” just after I passed—

saw the "Strathalbyn" just after I passed the "Virginian".

Q. About how long after? A. Well, right after.

Q. Was it a minute?

A. We both changed the course, we both took our time at Pully Point—the "Virginian" and the "Flyer".

Q. Was it a minute after you passed the "Virginian"?

A. Well, it was somewhere probably a minute or not that long.

Q. Is your estimate of time and distances very accurate now, captain, are the estimates you give now very accurate?

A. Well, they are—the time I give on the—the time I give on the testimony before the inspectors is just as near as you can get it; and now, why, I can't just recall the right time or distance. I thought this case was all over with or I would have paid a little more attention to it.

Q. Captain, do you think, now, that the testimony that you gave before the inspectors is more correct than any testimony that you might give now; in other words, was your recollection of the facts clearer at that time than it is now? A. Certainly.

Q. And you are willing to stand by your testimony before the inspectors? A. Oh, sure.

MR. HAYDEN: Do you want to introduce the whole of it in evidence?

MR. BOGLE: I will introduce the whole of it in evidence.

MR. HAYDEN: All right.

MR. BOGLE: Subject to our objection.

MR. HAYDEN: It is you who is introducing it.

MR. BOGLE: I introduce it because you have gone into that evidence, only. It is by stipulation to go in as a part of the testimony of this witness.

MR. HAYDEN: You can copy that right in that way, if you want to. Just as well to have him copy it right in.

MR. BOGLE: Yes.

MR. HAYDEN: So I will have my book back in the office, is what I mean.

MR. BOGLE: Yes. By stipulation of the parties, it is agreed that the testimony of Captain Burns, given before the inspectors, is copied into the record as a part of this hearing. We had better let it go at that, hadn't we?

MR. HAYDEN: I don't care.

The testimony of the witness given before the inspectors, above referred to, is in words and figures as follows, to-wit:

"CAPTAIN J. BURNS, having been first duly sworn, testified as follows:

"Q. (Mr. Whitney) J. Burns, is it?

"A. Yessir.

"Q. Captain Burns, were you master of the 'Flyer' on January 12th in the evening when the steamship 'Virginian' and the steamship 'Strathalbyn' were in collision? "A. Yes sir.

"Q. Were you in that vicinity? "A. Yes sir.

"Q. Did you pass either or both of those ships before that collision?

"A. I passed the 'Virginian' and passed the both of them, yes sir.

"Q. Where did you pass the 'Virginian'?

A. Passed her somewheres between Pully Point and Dash Point, sir, somewheres in that vicinity, or right off Pully Point I passed her; both of us was abreast there together.

"Q. Did you pass the 'Strathalbyn'?

"A. Yes sir.

"Q. Where did you pass her?

"A. We passed her about—well, I should judge about a mile on the other side of Pully or more; I could not tell just exactly the distance.

"Q. (Mr. Turner) You passed one ship and met the other one?

"A. Met the other one, yes.

"Q. (Mr. Whitney) You met the 'Strathalbyn'?

"A. Yes sir.

"Q. Now, did you pass the 'Virginian' and 'Strathalbyn' about the same distance apart, or was there a difference?

"A. Oh, there was a difference. I passed the 'Vir-

ginian' probably 200 or 300 feet and I passed the 'Strathalbyn' probably a half a mile or three quarters of a mile.

"Q. The 'Virginian' was very closely on your track when you passed her? "A. Yes sir.

"Q. Must have been if you passed her only that distance. Did you change your course to pass her, or did your course take you outside of her?

"A. No sir, I had to change my course to go on the outside of her.

"Q. Did you pass the usual signals? "A. Yes sir.

"Q. Did you pass the usual signals with the 'Strathalbyn'? "A. Yes sir.

"Q. After swinging out for the 'Virginian', had you swung back to your usual course to Point Robinson before meeting the 'Strathalbyn'?

"A. No sir, kept her on the same course as I steered from Pully Point—from Alki Point to Pully Point, so I could clear the other vessel.

"Q. Had you seen the other vessel as you were passing the 'Virginian'? "A. Yes sir.

"Q. What did you see on the other vessel?

"A. I seen his range light, sir.

"Q. (Mr. Turner) Did you see his headlight?

"A. I seen his headlight, yes sir, and the light on his main mast—the range light.

"Q. (Mr. Whitney) Did you see his side lights, either of them?

"A. I didn't see the red light, sir, at all.

"Q. (Mr. Turner) Did you see the green light?

"A. I seen when I came back to the vessels, yes sir.

"Q. (Mr. Whitney) When you first saw his range lights, were they in such a position that you could have seen his green light had it been burning brightly—

"A. (Interrupting) Yes sir.

"Q. (Continuing) —and in position?

"A. Yes sir.

"Q. Were his lights in range?

"A. His lights was in range, his range lights were in range, kind of across, you know; he was coming up on me and I was going that way and he was laying that way (illustrating). That is the only way I had to tell which way he was going.

"Q. Was he headed direct—what I mean is, when you first saw him was he headed directly towards you?

"A. No sir.

"Q. Well, how would you—

"A. (Interrupting) I was heading southeast by south, five-eighths south, and that would fetch me pretty well over to this side of the light, and he was coming, you see—

"Q. (Interrupting) But you don't understand what I mean. No matter from what direction he might be coming from. Was his head pointed towards your vessel? "A. No sir.

"Q. That being the case, one or the other of his lights—his side lights, would be shut out, no matter if they were burning brightly and you were able to see them. What I am trying to get at is this: You said you didn't see his green light until you came back.

"A. No sir.

"Q. Was the head of his vessel such that you could have seen it, no matter how close she may have been to you, on that head?

"A. No sir, she was at no time so that I could see the green light, only afterwards, only the time that we met her to pass her.

"BY MR. TURNER:

"Q. As I understand you, the way the range light stood with the masthead lights, if you could have seen a side light you would have seen the red light?

"A. Yes sir.

"MR. WHITNEY: That is what I am trying to get at. "A. Yes sir.

"Q. (Mr. Whitney) Whether her green light was shut off, or not, when you first saw her?

"A. Well, it was shut off all right, with the position of the range lights.

"BY MR. TURNER:

"Q. Who gave the first whistle?

"A. Why, I blowed to the 'Virginian' and got an answer.

"Q. No, but after you got through with the 'Virginian'?

"A. Oh, why, the 'Strathalbyn' blowed me a passing signal, one whistle.

"Q. You saw her before she blew this whistle?

"A. Yes sir.

"Q. Did you see the ship at all, anything more than these lights?

"A. No, I just seen the lights, that was all, sir.

"Q. Had you any idea as to the size of the vessel?

"A. Not until she got abreast of us and then I made her out when she passed us; I made the vessel out then when she passed us.

"BY MR. WHITNEY:

"Q. How far do you think she was away when she was abreast of you?

"A. Well, she was probably a half a mile or more or so.

"Q. And you had passed her before you hauled up on your course for Robinsons? "A. Yes sir.

"Q. That is what you testified to. Did you see her red light at all—the 'Strathalbyn's'?

"A. No sir.

"Q. Were you on the port side after you returned to the scene of the collision?

"A. No sir, I was on the starboard side.

"Q. Did you see her green light then?

"A. Yes sir.

"Q. Did it appear to you to be burning brightly—

"A. (Interrupting) Well, it was—

"Q. (Continuing) —in position?

"A. It was a pretty bright light; it could have been brighter.

"BY MR. TURNER:

"Q. Was it what you would call a passable light?

"A. Yes sir, a good passable light.

"Q. Well, have you any reason to believe the red light was not lit?

"A. No sir, I don't know, sir, whether it was lit. I didn't see any light there at all.

"Q. Did you notice this vessel, was there anything about her, her load or her list or anything, that could obscure one of her side lights?

"A. Well, nothing at all, only the deck-load might

have kept it out of sight, the stanchions or something projecting over the side of the vessel. If it was burning, I didn't see it.

"Q. Did you hear the 'Strathalbyn' whistle for the 'Virginian'? "A. Yes sir.

"Q. How many whistles did he blow?

"A. Well, he blew—he blew one to me, and I answered, and then he waited a little while until he got a little further along and he blowed a whistle for the 'Virginian', didn't get any answer, and then he blowed another one and didn't get any answer, and then the next thing I heard was the danger signals, and I stopped the vessel and turned around and got there as soon as I could, and that is all I saw. I got my boats ready.

"BY MR. WHITNEY:

"Q. Was the green light of the 'Strathalbyn' as good a light as the ordinary oil-burning side light—

"A. (Interrupting) Yes sir.

"Q. (Continuing) —or about?

"A. It seemed to me to be just like an ordinary oil light would be.

"Q. Did you pass the 'Strathalbyn' again that night on your return from Tacoma?

"A. Yes sir, I hailed him again.

"Q. When you came back from Tacoma?

"A. Yes sir, off Browns Point—Robinsons Point.

"Q. Which side did you pass him?

"A. On the starboard side, sir.

"Q. Were you in a position in that passing to see his red light? "A. No sir.

"MR. TURNER: Well, I think about all there is with the witnesses on the 'Flyer' is as to whether the side lights were burning or not. There is not any question so far as the whistle signals were concerned, no contention that they were not blown right on either side.

"Q. (Mr. Whitney) Were the white lights of the 'Strathalbyn' steady lights, or were they unsteady, flare up and go down?

"A. Well, they looked to me to be steady all right, sir.

"Q. Did they appear to you to be as good as you would expect to find in lights that were burning oil?

"A. Well, yes, as good as an oil light would be.

"Q. (Mr. Turner) Did you notice, captain, this headlight and this range light—after the collision, did you notice the lights then, were they burning properly?

"A. Well, I didn't pay much attention to them then, sir. I seen—when I met him off Robinson Point them seemed to be burning all right, coming back, when I met them again; then when I went around to take them off after I left the 'Virginian', that is the only thing I had to go by to find them.

"MR. WHITNEY: Do you want to ask him any more questions?

"CAPTAIN GREEN: No. But I would just like to ask him: Whether you were pretty well abeam of him when you saw this green light?

"A. Yes sir. Yes sir, right abeam, right abeam. Every time I saw the light I was abeam of him. I didn't see it head on. When I came back to Robinson Point the vessel was laying right across the Sound and I seen his light in that position (indicating). I gave two whistles and stopped and hailed him and asked him if I could do anything. He told me no.

"Q. (Mr. Whitney) Passed his stern?

"A. Yes sir.

"Q. Which direction from you was the 'Strathalbyn' when she was first reported to you?

"A. She was about two points on the port bow, sir, two points and a half.

"Q. About two points? "A. Yes sir.

"Q. And how far ahead do you think—how far ahead of the 'Virginian' or yourself at the time you passed the 'Virginian'?

"A. How far was the 'Strathalbyn' off?

"Q. Yes, how far away was the 'Strathalbyn'?

"A. Well, I should judge she might be about a mile and a half or more.

"Q. You don't remember just—

"A. (Interrupting) No sir.

"Q. (Continuing) —what time you passed the 'Strathalbyn' and just what time you passed the 'Virginian'?

"A. I know what time I passed the 'Virginian'.

"Q. You know that because you took your time there at Pully? "A. Pully Point, yes.

"Q. But you would not know just what time you passed the 'Strathalbyn'? "A. No sir.

"Q. You think she was off about two points on your— "A. On our port bow, yes sir.

"Q. And you did not swing back to your course to parallel them, but kept off—

"A. (Interrupting) Clear.

"Q. (Continuing) —more to the right?

"A. Yes sir.

"Q. Now, did I understand you to say that you thought she was about a half a mile away when you were abeam of her? "A. Which, the—

"Q. (Interrupting) The 'Strathalbyn'?

"A. Yes sir.

"Q. And even there you could not see her red light? "A. No sir.

"Q. There could be no obstruction from deck-loads or anything of that kind when the vessel was directly abeam of you?

"A. No, I don't see where there could, myself.

"Q. That is presuming that her lights are adjusted at the end of the bridge as usual, or as any vessel is lighted? "(No response).

"BY MR. HUGHES:

"Q. I would like to know what time you passed the 'Virginian'? You said you—

"A. (Interrupting) 55—7:55, sir.

"Q. And did you take note of the time when the collision occurred?

"A. No sir, I did not. I was too busy getting the vessel around and going back to the 'Virginian' and the other one.

"Q. I would like to ask this question: When the 'Strathalbyn' was first reported to you, how far were you ahead of the 'Virginian'?

"A. Well, we may have been a half a mile or so.

"Q. And in what direction from the 'Virginian'?

"A. She was about seven points on our quarter—seven points.

"Q. On your port quarter?

"A. Six and a half or seven points, yes sir.

"Q. And about when, with reference to the 'Strathalbyn' being reported to you, was it that you observed her range lights?

"A. I had seen them before she was reported to me.

"Q. Well, about how long?

"A. Oh, well, I should say five minutes or more.

"Q. Were you beyond the 'Virginian' when your attention was first called to the 'Strathalbyn', when you first observed her range light?

"A. Well, I was not very far past her, I had not passed her very much before I saw the lights; that is why I kept the vessel out on a course to clear him.

"Q. Well, about where were you from the 'Virginian' when you first saw the range lights of the 'Strathalbyn'?

"A. Well, just past the 'Virginian'.

"Q. I mean which way would she lie from you, how far off and which way?

"A. Which, the 'Strathalbyn'?

"Q. The 'Virginian'?

"A. Oh, she lay—she was going astern all the time. We were the overtaking boat, we were passing her.

"Q. Off on your port quarter? "A. Yes sir.

"Q. And about how far away when you first observed the lights of the 'Strathalbyn'?

"A. Well, it was about a half a mile probably. Now that is as near as I could judge. Of course you can't judge any distance in the night time anyhow.

"Q. You mean, captain, she was falling astern of you? "A. Yes, falling astern, yes sir."

The cross examination of the witness was continued by Mr. Bogle, as follows:

Q. (Mr. Bogle) After Mr. Hayden had finished talking to you about Mr. Crawley's testimony, you were somewhat incensed, weren't you, or somewhat sore at Crawley, you thought he had reflected against your ability as a master? A. Well—

Q. That is the way the testimony struck you, was it?

A. Yes, that is the way it did, and I have the same

idea yet. Put yourself in the same position and see how it would affect you, or any gentleman in the house.

Q. I don't think it would affect me that way, captain, if I was clear and I was passing a vessel and I could not see her lights, that I would get a little excited about it.

A. If a man gets nervous or excited on a ship, and carrying a load of passengers, he had better go somewhere else, not on a steamboat.

Q. You didn't think it was anything unusual by not seeing a port light on the "Strathalbyn" at all?

A. I never took particular notice of it at all.

Q. I say, you didn't think there was anything unusual about that and it never affected you one way or the other, you never thought about it?

A. Never thought about it, no sir.

Q. And after you passed the "Strathalbyn", did you pay any particular attention to the "Strathalbyn" and the "Virginian"? A. No sir.

Q. What attracted your attention to the collision?

A. The collision—when they started to blow whistles I turned around—noticed the danger signal.

Q. Could you see anything then, captain?

A. Well, I could see them come together.

Q. Where were you standing when you saw them come together?

A. I was standing right in the pilot house. I could see through the window, the aft windows.

Q. See through the aft windows?

A. Yes, I did. She was coming around. I slowed down, she was coming around.

Q. Now, captain, prior to the collision, when you were past the "Strathalbyn" or approaching her you were looking out of the pilot house windows, were you?

A. No, I didn't pay any more attention to her until I heard—

Q. (Interrupting) I say, prior to the time when you saw those range lights?

A. I was looking out through them, yes.

Q. Looking through the windows? A. Yes.

Q. The windows were all up?

A. When she blowed a whistle I answered—

Q. (Interrupting) The windows were all up?

MR. HAYDEN: Wait. He said he didn't pay any attention. Did you get that?

A. Windows—about the window part, I don't know whether they were up or down.

Q. You don't know they were up?

A. I know my own window was up all of the time—two of the windows which I looked out of.

Q. You don't know about the other window, do you?

A. No, I don't remember any other windows at all.

Q. And you say now that you didn't put down any windows when you were approaching or passing the "Strathalbyn"?

A. No. When I came to the ship I put down windows—when I came back to the wreck. I wanted to see what I was doing.

Q. You don't remember what windows were up prior to that time, do you?

A. Oh, I remember the windows that I was looking out of was open.

Q. What windows were those, two windows immediately in front?

A. Yes, right in front.

Q. How about the side windows?

A. The side windows, they were up I suppose.

Q. Do you remember—

A. (Interrupting) Never usually taken down at all.

Q. Do you remember clearly now whether they were up or down?

A. No, I don't remember whether they were up or down.

Q. And you made no remark whatever—

A. No remark, no sir.

Q. You didn't even speak to him?

A. I didn't even speak to him, no sir. As a rule I never speak to a quartermaster in the pilot house, or let anybody else speak to the man that is steering a ship; that is a rule on board a ship.

Q. Never to speak to the quartermaster at the wheel?

A. No, only to give him a course.

Q. Never speak to him after that? A. No.

Q. And if any other captain should speak to the quartermaster and remark about lights, that is something unusual, is it? A. Yes.

Q. If you had seen anything unusual about the "Strathalbyn" or her appearance—

A. (Interrupting) I didn't notice anything, no.

Q. (Continuing) —would you have spoken to the quartermaster, would you have said anything?

A. No, I would not say nothing to him.

Q. You didn't notice anything unusual about her appearance at all? A. No sir, not a thing.

Q. You could not make out the ship, could you, captain, tell what size she was?

A. Well, you could see the ship by the range lights, which way she was going, that is all I say, and when he gave me the whistle I answered him and passed right along.

Q. That is all you saw, was the range lights?

A. That is all.

Q. Was that all you saw at any time until after the collision?

A. That is all I saw until after the collision.

Q. You didn't look around to see whether she had a stern light burning? A. No, I did not.

(Witness excused.)

(Filed May 27, 1914.)

STIPULATION.

IT IS HEREBY STIPULATED AND AGREED that the affidavit of W. H. Hayden attached hereto may be received and considered as evidence in the above entitled causes. It is also stipulated that Lawrence Bogle may file a counter affidavit.

Dated May 26, 1914.

HUFFER & HAYDEN,

Proctors for Strathalbyn Steamship
Company, Ltd.

BOGLE, GRAVES, MERRITT & BOGLE,

Proctors for American - Hawaiian
Steamship Company.

BALLINGER, BATTLE, HULBURT & SHORTS,
Proctors for Strathalbyn Steamship
Company, as Bailee.

AFFIDAVIT of W. H. Hayden.

State of Washington, County of Pierce—ss.

W. H. Hayden, being first duly sworn on oath, deposes and says that he is the W. H. Hayden referred to in the testimony of Frank Walker, a witness for the claimant, AMERICAN-HAWAIIAN STEAMSHIP COMPANY, and one of the proctors for the libellant herein, and has been such since the commencement of this action; that sometime prior to the 14th day of February, 1912, a Mr. Moody, then engaged with the proctors for the AMERICAN-HAWAIIAN STEAMSHIP COMPANY herein, came aboard the steamship "STRATHALBYN" when she was lying in Tacoma Harbor, the affiant then being present, and was asked by Mr. Purdy, the third officer, if he (Mr. Moody) should be permitted to take measurements. This affiant told Mr. Moody that he could not do so, but that he would arrange with Mr. Bogle to have the measurements taken by mutually selected surveyors in order that there would be no controversy about the measurements, and in order that they would be accurate when submitted to the Court; that Messrs. Bogle, Graves, Merritt & Bogle selected Mr. Frank H. Walker and affiant selected Mr. C. P. M. Jack and in some way unknown to affiant Mr. William H. Logan was also called in, and the "STRATHALBYN" was measured by these gentlemen at Victoria; and this affiant was present as was also Mr. Lawrence Bogle when these measurements were made, and the "STRATHALBYN" was at that time in the dry-dock; that the vessel was measured between the iron brackets in the port and starboard light screens on the lower bridge, and that the distance then gotten between those iron brackets was 46' 10"; that the vessel was also measured about 8 feet forward of the house between her rails, and that the distance then gotten was 46' 7½"; that affiant and Mr. Lawrence Bogle of the firm of Bogle, Graves, Merritt & Bogle, agreed that after the measurements were taken and after the

surveyors had agreed to them, that a plat should be made showing the measurements taken, the two measurements above mentioned being only a part of those taken at the time; that said plat should contain all the measurements then made, should be certified to by the surveyors, and should be filed as the evidence of the measurements in this case, and that a copy of the blue print should be furnished for both Mr. Bogle's and affiant's use, but affiant refused to deliver such incorrect copy except on the conditions herein stated and the ground that affiant assumed, when making such arrangement, that the blue print would be correct. That, after the measurements were taken, Mr. Lawrence Bogle, Mr. Frank H. Walker and affiant returned from Victoria to Seattle and Tacoma, respectively; that something like a week or ten days before the "STRATHALBYN" left for Australia after she was repaired and reloaded, which, as affiant remembers, was about the 20th of March, 1912, a tracing and blue print were brought into his office, according to affiant's recollection, by Mr. C. P. M. Jack. This tracing and blue print were rolled up together and enclosed in a paper wrapper and affiant was then informed that the package contained the surveyor's report of the measurements at Victoria, and that said package was left unopened on affiant's desk until after the "STRATHALBYN" left, affiant being constantly engaged in court and principally with the "STRATHALBYN" case between the time the said package was left with him until after the "STRATHALBYN" left, and never having any suspicion there was any error in the measurements; and when affiant opened the said package, probably a few days before the 13th day of April, 1912, he found but the original tracing which is introduced in evidence in this case as "Libelant's Exhibit 'X' 14" and the blue print, which is introduced in evidence in this case and is identified as "Claimant's Identification '5-5' "; affiant found but the original tracing and one blue print, although he expected to find several blue prints, and thereupon took the tracing to Engineer Nicholson's office in the Fidelity Building to have blue prints made from it in order that he might have one copy for his office use and one copy

for Mr. Bogle's office use; that after the said blue prints had been made, affiant personally started to copy in the measurements that had been written in, in ink upon "Claimant's Identification '5-5'", that is, the blue print, and then for the first time discovered what appeared to be an error therein, in that instead of the measurement 46' 10" being shown as between the iron brackets in the light screens, it was shown to be from the outside of the end blocks of the light screens; that the blocks in the ends of the light screens were $4\frac{1}{2}$ inches on each screen. That the surveyors at Victoria had estimated the distance between the lights to be 47' 7"; that when the measurements were about to be made, the "VIRGINIAN'S" surveyor in Victoria suggested that the outer edge of the block in the forward end of the light screen was equivalent to the center of the flame of the lamp. That affiant believed the rule to be that the outer edge of the block in the light screen was equivalent to the inside edge of the wick. In order to avoid a discussion on this subject, as there was no way to settle it at hand at that time, affiant suggested that the measurement be made between the iron brackets upon which the lamps fitted, so that the true measurement between the flames could be obtained by adding to the distance between the iron brackets the actual distance from the flame to the outside of the lamp which would give the exact distance between the in-board edge of the wicks of the lamps, and this suggestion was finally agreed to and the measurement of 46' 10" was obtained accordingly. The lamps were not available for measurement because they were then on exhibit in evidence in Tacoma. When affiant discovered the apparent error in the blue print, he called the same to the attention of Mr. Lawrence Bogle and requested that he see Mr. Walker to have the same corrected. Mr. Bogle agreed to put the matter before Mr. Walker, and affiant went to Seattle with the blue print and tracing above referred to marked respectively "Claimant's Identification '5-5'" and Libellant's Exhibit 'X' 14" and met Mr. Walker with Mr. Lawrence Bogle at Mr. Bogle's office and informed Mr. Walker that the blue print was erroneous, in his belief, in that the measurement of 46' 10" was indicated to be between

the outside of the blocks instead of between the iron brackets. Mr. Walker asserted that he knew of no mistake in the blue print, and affiant laid out the blue print and the tracing on the desk and asked Mr. Walker to look at it, which Mr. Walker did, but refused to make any correction or in any manner to admit that there was a mistake in the blue print and asserted that he had been treated shabbily because he had not been given a copy of the blue print signed by the surveyors, and that he would not make any change in the blue print or have anything more to do with the matter until he was furnished with a copy of the blue print; that affiant never agreed or arranged, before this interview, to give Mr. Walker a copy of the blue print and does not know of any such arrangement having been made by anybody; and affiant being unable to accomplish anything with Mr. Walker, refused to deliver to Mr. Bogle a copy of the blue print, asserting that he would not place it in circulation where it might be used among adjusters or others interested in the case when it was incorrect, but did offer to give a copy of the blue print to Mr. Bogle provided he would give affiant his personal assurance that it would be used for no purpose except he might introduce it in evidence in the case subject to explanation. That at either the meeting above referred to or one shortly afterwards, Mr. E. C. Hughes, who was then associated with Mr. Bogle in the case, was in Mr. Bogle's office and Mr. Bogle told affiant he would consider that proposition with Mr. Hughes, Mr. Hughes being in another room of the office; and after Mr. Lawrence Bogle spoke to Mr. Hughes about it, both Mr. Bogle and Mr. Hughes told affiant they would not accede to affiant's condition, and thereupon affiant refused to deliver a copy of the blue print to Mr. Bogle on the ground that it was incorrect, and he would not permit an incorrect document to go forth in circulation without explanation, which explanation affiant would have opportunity to make if the copy were attempted to be introduced in evidence. That afterwards affiant did deliver to Mr. Bogle a copy of the blue print with a letter written thereon in order to again have Mr. Walker consider the error, but this affiant was not advised that

Mr. Walker had reconsidered the matter before his testimony was taken. That affiant had no knowledge, suspicion, intimation or suggestion that the blue print was not correct until after the "STRATHALBYN" had gone to sea, and did not look at the blue print or tracing until after the "STRATHALBYN" had gone to sea, and only discovered what he considered and believes to be an inaccuracy through his personal examination of the blue print, when engaged in copying the figures thereon onto the copy of the blue print which he intended to send to Mr. Bogle. That affiant's recollection of the measurements taken was absolutely clear, and for that reason the error became immediately apparent to him when he started to copy the blue print.

W. H. HAYDEN,

Subscribed and sworn to before me this 27th day of May, 1914.

(Seal)

F. A. HUFFER,

Notary Public in and for
the State of Washington,
residing at Tacoma, Pierce
County, Washington.

(Filed May 28, 1914.)

CLAIMANT'S AND CROSS-LIBELLANT'S TESTIMONY.

CAPTAIN JOHN S. GREEN, produced as a witness on behalf of RESPONDENT and CROSS-LIBELLANT, having been first duly sworn by the Notary to tell the truth, the whole truth and nothing but the truth, testified as follows:

Q. (MR. HUGHES) Give your full name, captain.

A. John S. Green.

Q. What is your business?

A. Ship master and mariner.

Q. How long have you been a ship master?

A. Fourteen years.

Q. What is your age, captain?

A. Forty-four.

Q. How long have you been master of the steamship "Virginian"? A. About a year and a half.

Q. The "Virginian" is an American ship, registered at the Port of New York? A. Yes sir.

Q. What is her tonnage, gross and net?

A. 5,077 net; 9,904 gross.

Q. Tons? A. Tons.

Q. What are her dimensions?

A. 492 feet long; 58 feet 3; 31 feet 9.

Q. What is her carrying capacity?

A. 11,000 tons.

Q. In what trade is she engaged.

A. She is engaged in trade between the ports of San Francisco, Seattle, Hawaiian Islands and Mexico.

Q. She connects with the Tehuantepec Road, don't she? A. Yes sir.

Q. And makes the trip along the Pacific Coast to Seattle and across to the Hawaiian Islands?

A. Yes sir.

Q. Belongs to the American-Hawaiian Steamship Company. A. Yes sir.

Q. On what voyage was she engaged at the time of the collision with the "Strathalbyn"? A. Voyage 26.

Q. I mean for what port had she started and on what—

A. (Interrupting) The voyage started at Salina Cruz and had stopped in San Diego, San Francisco, Seattle.

Q. And you were then in the ports of Puget Sound for cargo, intending to complete your voyage to the Hawaiian Islands; is that right? A. Yes sir.

Q. Did you have any cargo aboard on the evening of January 12th when the collision occurred?

A. Yes sir.

Q. Were you aboard the ship that night?

A. Yes sir.

Q. Who was your pilot? A. Duffy.

Q. At what hour and at what dock did you leave the city of Seattle for Tacoma?

A. Left the Oriental Dock at 6:45 for Tacoma.

Q. I wish you would state about what time you had Pully Point light abeam?

A. Pully Point light abeam at 7:53.

Q. Were you on deck at that time A. Yes sir.

Q. Did you observe whether she changed her course any in rounding Pully Point—swung out?

A. No, not in rounding, before that—before we arrived at Pully Point we had hauled out.

Q. Had hauled out. So as to give further clearance? A. Yes.

Q. About how far were you off Pully Point when you passed it? A. Must have been a half a mile.

Q. Do you know whether she took her course for Robinson Point when she was at or nearly abreast of Pully?

A. Yes sir, she was hauled in again three quarters of a point.

Q. Did you observe the steamer "Flyer" at about the time you were at Pully Point? If so, state what you saw—

A. (Interrupting) Before the ship arrived at Pully Point I observed the "Flyer" coming up on our port quarter.

Q. Then state what you observed as to the "Flyer"?

A. Passed over to the starboard side and ran on the quarter, blew one whistle, which we answered; then she passed ahead, that is, she slowly passed along ahead, but seemed to haul out a little more from us.

Q. When she was abeam of you about how much clearance was there between you, according to your best judgment? A. Why, I should say about 200 feet.

Q. And she kept spreading out then? A. Yes.

Q. Away from you. How high is your bridge?

A. That is the bridge itself?

Q. Yes.

A. 40 feet; that is at that time it was 40 feet above the water.

Q. With the condition of your load your bridge was 40 feet above the water? A. Yes.

Q. How was it with reference to the "Flyer's" bridge, for example?

A. Oh, the "Flyer" was—we must have been 25 feet above the "Flyer".

Q. That is, a person on your bridge would be 25 feet above a person on the "Flyer's" bridge; is that what you mean?

A. Well, it would be more than that; a man's head, it is about 47 feet, 46 feet above the water.

Q. Now, after the "Flyer" had passed you, what whistles if any did you hear?

A. I didn't hear any whistle at all.

Q. Where were you, what had you done after observing the "Flyer"?

A. I had left the bridge after the "Flyer" passed us, when I saw the ship haul on her course for Point Robinson.

Q. What did you do?

A. I went below for a few minutes.

Q. Captain, go on and tell what occurred without your sight or hearing and what fell under your personal observation from that time until the collision?

A. Well, I was below. I believe about three minutes when I heard the telegraph ring, that is, I could hear the movements of the telegraph to the engine room. I rushed up on deck—

Q. (Interrupting) When below you mean—

A. (Interrupting) I was in my stateroom. I went up—went out on deck, went up on the port side, saw the third mate at the telegraph, and I says, "What's the trouble?" He says, "There's a vessel ahead that we can't see her lights"—

MR. HAYDEN: (Interrupting) I object to that conversation. I move to strike it out.

Q. (MR. HUGHES) Go right on.

A. I asked him what the trouble was and the answer was that there was a vessel ahead.

MR. HAYDEN: Same objection.

A. He says, "We can't see his lights, we can't tell in what direction he is going." I then walked over to the starboard side on the bridge while looking ahead, and by the time I got over there I heard the pilot order the third officer to put the telegraph full speed astern.

Q. What was the signal—telegraph signal that you heard before? A. Stop the engines.

Q. And what are those signals, what signal?

A. Well, there is a dial on the face of the telegraph.

Q. You can tell from the sound of it which it is, whether it is a stop or go full speed astern?

A. No, you can't tell that—see by the dial.

Q. Well, now proceed. What occurred after that?

A. When I heard this pilot order "Full speed astern" I went over to see if the officer had obeyed and I saw that he had. I was looking ahead, and a little while afterwards, I should say about two minutes, I heard four blasts off the whistle from seemingly right ahead. I ordered the third officer to blow three whistles, signifying that we were going full speed astern.

Q. Did he do so? A. Yes sir.

Q. Now, up to that time had you been looking ahead to try to locate the vessel that was giving these whistles?

A. Yes sir.

MR. HAYDEN: Objected to as leading.

Q. What if anything did you see?

A. I saw the light on Brown's Point—or Robinson Point, and saw the "Flyer's" lights. I could see no other lights.

Q. What occurred after that?

A. Shortly after I had blown the three whistles we came together—the two ships.

Q. What observation were you able to make of the ship ahead of you, which was afterwards found to be the "Strathalbyn", prior to the collision?

A. No observation at all. I could not see the vessel at all.

Q. Well, when did you first see the loom of the hull of the vessel—the "Strathalbyn," I mean?

A. Well, I made out the loom of the vessel just as we backed off, as we were backing away from her I could see the loom of the vessel.

Q. How far was the bridge where you were standing back of your bow—stem?

A. About 200 feet.

Q. What kind of a night was it?

A. A dark night. No fog.

Q. Overcast? A. Overcast, cloudy, yes.

Q. Rained shortly afterwards? A. Yes.

Q. As nearly as you could tell from your position, then, how did those two vessels appear to come together, and what did you observe as you backed away?

A. Well, according to my observation it seems that

the "Strathalbyn" struck us on the starboard bow pretty near end on. The ship took a list to port.

Q. Your ship?

A. Yes, but she backed right away, that is the both vessels went apart instantly practically. After we had backed off a little distance and I had stopped the ship and the "Strathalbyn" had swung broadside to us, looked to me as if she was working her engines ahead to go around to Tacoma, I could see her red light very dimly—the "Strathalbyn's".

Q. About what was your position with reference to the beam of the "Strathalbyn" at the time you saw her red light?

A. Well, we were pointing pretty near towards her beam then, that is, we were practically at right angles to her.

Q. Did you then or at any time after the collision observe any other lights on the "Strathalbyn"?

A. Yes, after we had started ahead slowing and got parallel to her I could see what I supposed to be her range lights aboard of her, that is, a masthead light and after range light; that is, from the position of these two lights I would take them to be a forward masthead light and an after range.

Q. As I understand, in the testimony of the "Strathalbyn" she didn't in fact have an after range light—

MR. HAYDEN: (Interrupting) I object to that as leading and suggestive to the witness.

MR. HUGHES: Let me put my question and then you can make as many objections as you like.

MR. HAYDEN: I prefer to make it right in there.

MR. HUGHES: No, but you can't, that is all. I will repeat it as often as you do, because I am going to ask my questions.

MR. HAYDEN: You have got my objection, Mr. Hughes. Go ahead in your own way.

MR. HUGHES: I will start over again. You can make your objections to my questions, I don't want to stop that, but what I object to is your interrupting me in the midst of a question.

MR. HAYDEN: I think I had a right to, under

those circumstances. I wish to preserve my objection right where I put it.

MR. HUGHES: It will be perfectly useless, it will cumber the record. I am going to ask my questions.

MR. HAYDEN: I will make it this way and avoid encumbering the record, that my objection will be considered as made, if you make that statement.

MR. HUGHES: Your objection will have to be considered as made.

Q. (MR. HUGHES) Captain, the officers of the "Strathalbyn" have testified before the inspectors that in fact they did not have range lights. Now I ask you—

MR. HAYDEN: (Interrupting) Same objection.

Q. (MR. HUGHES, continuing)—in the light of your experience as a navigating officer, with familiarity with lights that are usually carried on board ship and used on board ship, what explanation you have to offer as to the lights that you saw that night, assuming that there was no light on the "Strathalbyn's" mainmast, what other lights could you have mistaken for the range lights?

MR. HAYDEN: Same objection as—

A. (Interrupting) There might have been a light on her bridge.

MR. HAYDEN: Just a minute, please. Same objection, as leading and suggestive and irrelevant and immaterial.

A. Might have been— I might have taken her forward light for a forecastle headlight and a light on the bridge for an after range light. These lights were not steady, they would flicker up and lower down as if something came in their way and obscured them for a while—like that.

Q. You mean, I take it, that you might have taken the lights in the forecastle head for the forward light?

MR. HAYDEN: I object to that as leading and suggestive. A. Yes.

Q. Well, go on and state what occurred after this time?

A. Well, laying at nearly right angles to each other, the "Flyer" passed the "Strathalbyn" and came to us and

asked if we wanted any assistance. I says, "No," but I asked him how the other fellow was—

MR. HAYDEN: (Interrupting) I object to that as incompetent and hearsay.

Q. (Mr. Hughes) Go on.

A. From what I could understand he said he was all right.

MR. HAYDEN: Same objection.

A. And he proceeded away to Tacoma. By that time the "Strathalbyn" had gotten straight around towards Brown Point—or Robinson Point, and we followed her closely, stopping and going ahead, just to keep about abreast of her, until she got pretty near to Robinson Point.

Q. Then what did you do?

A. As she made no call or made any sign of wanting assistance, we proceeded to Tacoma, arriving there about 10:45, I should judge.

Q. Captain, now going back to the time when you came on the bridge after hearing the signal to stop your vessel, did you observe the "Flyer"? A. Yes.

Q. About what position did she occupy on the water there with reference to the "Virginian"?

A. She was about three points on the starboard bow.

Q. And about what distance?

A. Well, I should think she was about a thousand feet ahead of us.

Q. When, with reference to your coming upon the bridge, was the signal given your ship to go full speed astern?

A. Well, I can only judge by walking—coming up, walking across the bridge; I walked across the bridge and asked the officer what was the trouble, and then walked to the starboard side, and when I got over there, why, the pilot had said "Full speed astern." Well, I should think it would not take more than thirty seconds, anyhow, at the most.

Q. Did you, after coming in deck, hear any signal blasts from a vessel apparently ahead of you somewhere?

A. No, sir, none.

Q. You didn't hear a single blast at all?

A. No, sir.

Q. The only blasts you heard were the—

A. (Interrupting) Were the four blasts.

Q. Four blasts? A. Yes.

Q. How long was your ship going astern before the collision occurred, according to your best judgment?

A. I should think about two minutes.

Q. What is the speed of your ship?

A. The speed she was making that night was about eleven knots. She goes fourteen or fifteen, for that matter. Going under two boilers was all.

Q. About how long had your engine been stopped before the signal to go full speed astern?

A. I should think about a minute.

Q. From your experience with that ship, when you were going that way, stopping a minute and then running full speed astern for two minutes, how much headway would she have left?

A. I don't think she had any headway at all, because loaded with 11,000 tons of sugar or cargo I can stop her in five minutes.

Q. Stop her from full speed ahead to full speed stern? A. Yes.

Q: Is she a twin screw? A. Yes.

Q. Were both your screws in the reverse of the engines? A. Yes, sir.

Q. How would she back, assuming that the wheel was not changed?

A. Well, ordinary conditions she backs just straight.

Q. Well, as the conditions were that night?

A. She would back straight, very little way.

Q. From your observation, what would you say as to the way she backed?

A. According to my observation she backed straight, that is, from the appearance of Point Robinson light afterwards and before the collision.

Q. Did you remain up until the "Strathalbyn" came in, after reaching Tacoma?

A. Well, it set in raining, thick rainy. Well, I was

in the office there until twelve o'clock, but I don't know when she came in. I saw her the next morning.

Q. Did you see her the next morning?

A. Yes, sir.

Q. Did you go aboard of her? A. Yes, sir.

Q. Did you go alongside of her? A. Yes, sir.

Q. Did you observe her deckload? A. Yes, sir.

Q. From the water alongside? A. Yes.

Q. How did her forward deckload appear?

A. Her forward deckload looked to me to be on a level with her lower bridge.

Q. Did you see the stanchions that held the forward deckload? A. Yes, sir.

Q. What sort of stanchions were they?

A. Well, they looked to me to be about 6 by 8, something like that.

Q. Were they the same level or higher or lower—

A. (Interrupting) No, they were four feet higher than the deckload.

Q. She had no lights on her the next day when you saw her, of course?

A. No. She had a glass globe up in her upper light-box; that is, it looked like—to me like an electric globe but no glass there, no red or green glass, no lamp; had what looked to be an electric light up in her upper light-box. Down in the lower light-box there was nothing there at all.

Q. You are speaking now of the side lights?

A. Side light-boxes, yes—screens.

Q. These upper side lights that looked to you as electric lights—I mean light globes, were on what bridge? A. On her upper—flying bridge.

Q. And the lower screens that you speak of were on what bridge?

A. The lower bridge, on her boat deck—it is what we call a boat deck. She didn't have any boats there, her boats were further aft; but that is her lower bridge.

Q. How did this deckload appear with reference to those lower screens?

A. Well, they looked to be about on a level with it.

Q. How did the stanchions appear with reference—

A. (Interrupting) The stanchions appeared higher.

Q. Well, how with reference to parallel lights, did you notice that?

A. Well, I didn't notice that. Looked to be right in front of the lights, right along the whole length of the ship.

Q. From where you were on the water could you tell where these screens were located with reference to the end of the bridge, how with reference to the ship's rail? A. No, I could not.

Q. Did you see how the cargo was with reference to the side of the rail, as to whether it was flush with it or not—the forward cargo?

A. Well, the cargo was out to these stanchions, that is all I noticed—was hard up against those stanchions.

Q. You saw no light, lamp or no arrangement—provision for any lamp on the masthead other than the electric globe that you have spoken of?

A. That is all; I saw the electric; there is a regular electric masthead light up there, also an after range light up there too, with a plate stuck in front of it, about seven inches high.

Q. That was on the mainmast? A. Yes, sir.

Q. Were there any fore-stays from the foremast down to the masthead—or down to the bow of the ship I mean? A. No.

Q. What stays were there?

A. No stays there, because they had been carried away in the collision.

Q. Oh, they had been carried away.

A. That is the lower end of them were carried away. There was a masthead—up the masthead I suppose were fast there, I didn't notice particularly about that.

CROSS EXAMINATION.

(Mr. Hayden) Captain, have you got the ship's log here? A. No.

Q. Where is it? A. On board ship.

Q. I wish you would produce both the ship's log and the engineer's log. Have you seen the ship's log and the engineer's log since this accident. A. Yes.

Q. Do you know what those logs contain, a report of this accident?

A. Yes, I do. I know what the mate's log contains, because I signed it.

Q. Did you sign the engineer's log?

A. No, I didn't sign the engineer's log.

Q. Have you seen the engineer's log since the accident? A. Well, I have, yes.

Q. You have read it, have you? A. Some of it, yes.

Q. In connection with this accident?

A. Yes, I think I have.

Q. What does it say about the time your ship stopped with respect to the time of the collision?

A. I don't understand what you mean.

Q. How long before the collision?

MR. HUGHES: This is not cross examination. I object to it as not cross examination.

Q. (Mr. Hayden) How long before the collision, as reported in the engine room log, is it recorded that they received a bell to stop her?

A. I don't remember that. I didn't pay much—

Q. (Interrupting) Have you any idea?

A. I think about three minutes. I would not say for sure, but I think so; I don't remember much about the engineer's log because that don't—

Q. (Interrupting) You were not interested in the engineer's log?

A. Well, I am interested in it, yes, but not as much as I am—

Q. (Interrupting) Didn't you notice the engineer's log very closely after this accident, as master of this ship? A. Yes.

Q. But you don't remember anything it said about that? A. Yes, I remember some things it said.

Q. What does it say?

A. Well, it says that 7:59 a collision occurred, if I am not mistaken.

Q. And what time does it say that the bell was given "Full speed astern"? A. 7:58, I think.

Q. 7:58. And yet it says 7:59, does it?

Q. (Interrupting) Isn't it a matter of fact that the engine room log—calling your attention now—reads like this: "Full astern 7:58"—that is as you recollect it, is it?

G. Go ahead, read on, I can tell you then maybe.

Q. I say, "Full astern, 7:58"—is that the way you recollect it? "Ahead slow 8:09 p. m." "Came into collision with 'Strathalbyn' at 7:58 p. m."?

A. I was not sure about that.

Q. Do you remember that? Don't you as a fact remember that your "Full speed astern" and your collision is recorded in the engineer's log as being at the same time? A. No, I don't.

Q. Are you as clear and positive about all of your testimony as you are about your recollection in connection with your reading this engineer's log? A. Yes.

MR. HUGHES: I object to that as not cross examination and as incompetent and irrelevant.

Q. (Mr. Hayden) Is there a record in your engineer's log that you stopped at all, gave one bell and stopped? A. Yes.

Q. You are sure of that, are you? A. Sure.

Q. What time was that bell given to stop?

MR. HUGHES: I renew my objection. This is not cross examination.

MR. HAYDEN: This captain is on here, he is testifying how this collision happened.

MR. HUGHES: I know, but he did not testify to any log.

MR. HAYDEN: He testified about his bells.

MR. HUGHES: It is not necessary to argue a proposition that is so perfectly self-evident, necessarily, to a lawyer or a judge.

(Question read).

MR. HUGHES: You asked the captain for his recollection now.

MR. HAYDEN: No, I am asking his recollection as to having read the engine room log. I have a right to know the accuracy of his recollection.

MR. HUGHES: Then you are calling for his recollection, not for the contents of the log?

MR. HAYDEN: His recollection of the contents of that log is what I want to get at.

MR. HUGHES: I object to that as not cross examination. (Discussion).

Q. (Mr. Hayden) Now, will you answer me, captain? A. What is the question?

Q. Whether or not you recollect the engineer's log book shows that they received a bell or signal to stop prior to this accident, at about the time of the accident?

A. I said yes.

Q. Well, I ask you what time that signal was recorded, if you remember, in the engineer's log?

MR. HUGHES: Same objection.

A. I don't know whether it was recorded in his log. I am not down the engine room to tell when it was recorded.

Q. (Mr. Hayden) I mean the time recorded as having received the signal?

A. Well, as near as I can recollect now it was 7:57 or 7:56.

Q. Yes, and now as near as you can recollect now when was the signal given—I mean when was the signal recorded in the engineer's log to go full speed astern?

A. 7:58.

Q. And as near as you can recollect, now, what does the engineer's log say about the time of the collision?

A. 8 o'clock.

Q. That is as near as you can recollect, is it?

A. Yes.

Q. If I were to call your attention to the fact that the record of the engineer's log showed at 7:58 p. m., does that refresh your recollection at all—that you came in collision? A. No, it would not, that is, about that.

Q. And your mind is a blank except you have an impression it was eight o'clock, you are not sure about the time of the collision?

A. I read the log over, surely, but I had two or three other times to keep in my mind and think about that I didn't particularly—I had the log to look at, at any time I wanted to.

Q. Yes, I know you did, that is what I am asking you about it for.

A. Well, I say I don't exactly know about those one or two minutes, then, in the log book, or the time of it. It may have been 7:58 when we stopped and it may have been 7:59. The thing is on record there.

Q. Now, you left Seattle when?

A. We straightened out at 6:45.

Q. Under way. What is the first point that you passed after leaving Seattle on your way to Tacoma?

A. Alki Point.

Q. What is the next point you passed before this collision? A. Pully Point.

Q. What time were you abreast of Alki Point?

A. I don't remember now exactly what time it was.

Q. What time were you abreast of Pully Point?

A. 7:55.

Q. How does your ship's time compare with the time on shore, do you know?

A. Why, I think it compares—

Q. (Interrupting) How did it do at the time of this accident?

A. I think it compares with Seattle time, that is, ordinary time. The third mate's watch was keeping the time of these entries in the log book—the bridge log book—the third officer's watch.

Q. Do you know whether that is Seattle time or whether there is a deviation in ship's time between Seattle time?

A. No, generally in port here we keep Seattle time.

Q. The "Flyer" overhauled you and was abeam of you before you got to Pully Point? A. Yes.

Q. How long before?

A. Oh, shortly before, pretty near—well, very little time before. She passed us—she was going a good deal faster than us, but still she was not gaining so much, because she passed us practically at Pully Point or a little before.

Q. Passed you before you got to Pully Point?

A. Just about off Pully Point.

Q. Do you know how fast the "Flyer" was going?

A. No, I do not.

Q. She was going by you quite fast, though, wasn't she?

A. Well, quite a little—she was going two or three knots faster than we were.

Q. I want to know if she passed you when you had

Pully Point abreast of you or whether she passed before you got to Pully Point?

A. She passed us about off Pully Point.

Q. About off? A. Yes.

Q. Well, which way?

A. What do you mean, which way?

Q. Towards Seattle—were you towards Seattle when she passed you, to towards Tacoma, from Pully Point, when she passed you?

A. We were about off Pully Point, about off Pully Point.

Q. That is as near as you can tell then?

A. Yes, saying Pully Point was here and we were here and here was the "Flyer," just about abreast (illustrating).

Q. And you passed Pully Point off about a half a mile? A. About a half a mile, yes.

Q. And the "Flyer" passed you on the starboard side—on your starboard side? A. Yes.

Q. About how far was the "Flyer" from you when she passed you?

A. About 200 feet, I should think.

Q. Came up abreast of you? A. From the looks.

Q. About 200 feet? A. Yes.

Q. Had you changed your course for Robinsons Point at the time the "Flyer" passed you?

A. Just about as the "Flyer" passed us we hauled up for Robinson Point.

Q. Were you on the bridge at that time? A. Yes.

Q. Were you on the bridge when they hauled up for Robinsons Point? A. I was on board when the "Flyer" passed us.

Q. Were you on the bridge when they hauled up for Robinson Point? A. Well, I would not say that.

Q. Do you remember your hauling up for Robinson Point? A. No, I won't say I know it.

Q. Did you see any vessels ahead of you before you went below at about Pully Point?

A. Yes, I saw the "Flyer".

Q. Did you see any other vessels ahead of you before you went below at Pully Point? A. No sir.

Q. Did you see Robinsons Point? A. Yes.

Q. Before you went below at Pully Point?

A. Yes.

Q. Did you see Robinson Point before you got to Pully Point?

A. Well, I just came out on deck then when the "Flyer" passed; we were at Pully Point; I saw Robinson Point then.

Q. When did you come out on deck, when the "Flyer" whistled?

A. No, when the "Flyer" was coming up astern, she was just coming up astern passing over on our starboard quarter.

Q. So then you must have seen Robinson Point light before you got to Pully Point, as the "Flyer" had overtook you and passed you?

A. Well, I didn't look for it, but I looked for it just before I left the bridge.

Q. You did? A. Yes.

Q. Did you see any other lights off towards Robinson Point light that could be taken for the lights of steamers, before you left the bridge? A. No.

Q. You didn't. Did you hear the "Flyer" whistle to a vessel ahead of you? A. No sir.

Q. Did you hear any whistles from the "Strathalbyn" prior to the danger signal? A. No sir.

Q. Did you hear the "Strathalbyn's" danger signal?

A. Yes sir.

Q. Where were you when you heard it?

A. I was on the starboard side of the bridge, forward of the "Virginian".

Q. On the starboard side of the bridge of the "Virginian" and forward when you heard—

A. (Interrupting) Starboard side of the bridge of the "Virginian," looking forward, when I heard it.

Q. And your vessel was not going astern at that time? A. Yes sir, she was.

Q. Full speed astern at that time? A. Yes sir.

Q. How long had you been on the bridge before you heard the "Strathalbyn's" danger signal?

A. About two minutes and a half, I should judge.

Q. About two minutes and a half. And you didn't

hear any whistles from the "Strathalbyn" except her danger whistles? A. No sir, that is all.

Q. So that there must have been two minutes and a half lapsed between the last whistle of the "Strathalbyn" and her danger whistle—

A. (Interrupting) Oh, I don't say anything about that. I said I didn't hear any whistle between there.

Q. You were on the bridge two minutes and a half?

A. That is what I should judge from the time that we—from the time I came on the bridge until we—yes, practically until I heard the—until the danger whistle.

Q. Practically—what do you mean by "practically"?

A. Well, I mean to say that is as near as I can judge to the time.

Q. That you came on the bridge just as they blew the danger whistle?

A. No, I say from the time I was on the bridge until they blew the danger whistle, I should think it was about two minutes and a half.

Q. Oh. And your vessel was making eleven knots an hour. A. Yes, about eleven knots.

Q. When you spoke of reversing your vessel and stopping her inside of five minutes, you had up full steam then?

A. Well, I will tell you, we generally run on two boilers, on an economical speed, that is, that is our economical speed—two boilers.

Q. I am talking about the time you say you have reversed her in five minutes?

A. From full speed ahead to—

Q. (Interrupting) Is that with two boilers?

A. Yes sir.

Q. That is on two boilers, the same as you were running that night? A. Yes sir.

Q. And that is on—about fourteen knots she makes on two boilers?

A. No, she don't make fourteen knots on two boilers. She makes about fourteen knots on four boilers.

Q. You ordinarily run her, for economical speed, then, on two boilers, is that it? A. Yes.

Q. Now, after you came on the bridge you asked

Mr. Duffy what the matter was; is that as I understood it? A. No, I asked the third officer.

Q. You asked the third officer "What is the matter here?"? A. What was the trouble.

Q. And what did he say?

A. He said "There is a vessel; we can't see in what direction she is going."

Q. Did he report to you having heard any whistles?

A. Report to me?

Q. Did the third officer tell you that he had heard any whistles from the vessel ahead? A. No.

Q. He did not?

A. I don't remember him saying that.

Q. Did Mr. Duffy report to you of having heard any whistles of a vessel ahead?

A. No, I don't think so.

Q. Did they give you any indication to know how they knew a vessel was ahead?

A. I don't remember now whether there was any mention of whistles made or not.

Q. So when you came on the bridge you didn't know whether there was a vessel had given you the signal to pass to the port or starboard, did you? A. No sir.

Q. You said, before the inspectors, that you saw the red light some distance away—the "Strathalbyn's" red light some distance away. Do you remember how far?

MR. HUGHES: Wait a minute.

A. No—

MR. HUGHES: Wait a minute. I object to that as incorrect and untrue, in point of fact, and not proper cross examination.

A. I said I saw the "Strathalbyn's" light a short distance away—red light, after it was abreast of us.

Q. How far did you say that was?

A. Well, I should say it was about 200 feet.

Q. Why do you change it now, say 200 now?

A. Well, I didn't give any distance before, I don't think. I don't remember, I may have.

Q. Do you remember this question being asked you, at the inspector's office: "You hadn't seen the side light before?" And your answering it "No sir," and the

question "And this was after you had backed away how far?" And you answered "Oh, I should judge 400 feet off." Do you think that you may have given that testimony before the inspectors?

A. Yes, I think likely I gave that testimony.

Q. Now, having recalled your mind to that statement at that time, do you think that you were 400 feet off now, or do you wish to make some correction of that?

A. Well, I would make it between two and 400 feet; that is quite a short distance.

Q. And you could see the red light 400 feet away then—between two and 400 feet?

A. Yes sir—in that position that she was at that time.

Q. Yes, I understand. And you saw her headlight when after this collision?

A. I saw what I took to be her headlight after we had paralleled her course.

Q. Didn't you see her headlight immediately after the collision? A. No sir.

Q. Did you see her headlight immediately before the collision? A. No sir.

Q. Did you see her headlight at all?

A. What I took to be her headlight, yes, after we had backed away and she got straightened out towards Tacoma and I was parallel to her, that is—

Q. (Interrupting) Have you any doubt but what it was her headlight?

A. Oh, well, I am in doubt, yes, whether it was.

Q. You are in doubt? A. Yes.

Q. What raises that doubt in your mind?

A. What raises that doubt? What raises the doubt in my mind is because she had what I took to be an after range light, and I find out from the captain's testimony he had no after range light.

Q. I am talking about what you saw at the time.

A. That is what I say, that is the reason—that is what put it in my mind to doubt it; but I had no doubt then.

Q. That it was her masthead light?

A. That I thought it was her masthead light.

Q. At that time you had no doubt about it at all,

it was located in about the position you would expect to find a masthead light on a ship of her size, was it?

A. That was the only white light so elevated; that is the reason I took it to be a masthead light. Above these other lights I saw on deck.

Q. When did you see these other lights on deck?

A. I saw two or three other lights around on deck, several people were walking with lights.

Q. Were those the lights you took to be the range light?

A. No, the other lights—there was an elevated light aft.

Q. How far aft?

A. Well, I should think it would be 200 feet.

Q. 200 feet aft—

A. (Interrupting) Yes.

Q. (Continuing) —of the light that you took to be her masthead light? A. Yes.

Q. Was it elevated above the masthead?

A. Yes, seemed to be elevated above the forward light.

Q. And this was after you had straightened out?

A. Yes.

Q. And were both coming towards Tacoma?

A. Yes sir.

Q. And you were on her starboard side?

A. We were on her port side.

Q. You were on the starboard side of the "Strathalbyn" when you were coming to Tacoma?

A. We were on the port side of the "Strathalbyn".

Q. Did you come to Tacoma on the port side of the "Strathalbyn"? A. Yes.

Q. Where did you leave her and go to the starboard side?

A. We didn't go to the starboard side at all.

Q. How did you get across her at Robinsons Point? She went in to Robinsons Point.

A. I know she went in to Robinsons Point. We passed her on the port side. We were always on her port side.

Q. On her port side? A. Yes.

Q. You were always on her port side?

A. Always on her port side.

Q. This light that you took to be the masthead light, what kind of a looking light was that?

A. Well, it was a white light.

Q. Bright light?

A. Not very bright, because I saw it flicker up and die out. I could not see much about the light.

Q. Flickered up and died out?

A. She came up like this and go out again.

Q. Go completely out?

A. No—well, yes, completely out.

Q. Go right out? A. Yes.

Q. Did the masthead light do the same thing?

A. Just exactly the same.

Q. It would flare up and go completely out?

A. Yes.

Q. The masthead light did that too, did it?

A. Yes.

Q. And that masthead light was so elevated it could not have been taken for any lights on deck, could it?

A. It might have, it might have been—I could not see her hull.

Q. How high was it above the water, do you imagine?

A. Well, I don't know. I was looking down on it.

Q. You were looking down on it? A. Yes.

Q. Well, how close were you when you were looking down on it? A. Say a quarter of a mile.

Q. And do you mean to say that a quarter of a mile off from your vessel you could not estimate about the height of that masthead light from the water?

A. No, I could not estimate it.

Q. You could not estimate it. Now, coming around Pully Point towards Robinsons Point, did you ever notice the glow of the lights of the city of Tacoma back of Robinson Point? A. Back of Robinsons Point?

Q. Yes?

A. I have seen the electric lights in the air, yes, that is, the glow.

Q. Yes. That glow was in the sky on this night, wasn't it? A. Well, I didn't notice it, no.

Q. You didn't notice it. After you had passed the

"Strathalbyn" and came on to Tacoma, how far off was it that you lost sight of her masthead light or this light you took to be her masthead light?

A. How far off from the—

Q. (Interrupting "Strathalbyn"?)

A. (Continuing) —"Strathalbyn"?

Q. Yes.

A. Oh, I think we passed the "Strathalbyn" off Robinson Point about a quarter of a mile. She was heading in to Robinson Point. After we got by Robinson Point I looked back, I saw two or three different lights.

Q. You think you were a quarter of a mile off then?

A. When we passed her, yes.

Q. What is the greatest distance you saw the "Strathalbyn's" lights that night—your estimation?

A. About a quarter of a mile.

Q. Did you see her red light at that distance?

A. No sir.

Q. You could not see her red light at that distance.

A. No.

Q. Have you any defect of your eyes, captain, that you know of?

A. No, I have got pretty good eyes.

Q. Good eyes?

A. Good eyesight.

Q. This was a beautiful night to see lights, was it not—atmosphere clear?

A. Yes, good night to see lights.

Q. Fine night to see lights. You could see the lights on shore, could you?

A. Yes, I saw some lights on shore at Pully Point.

Q. Could you see the lights on shore on Maury Island? A. Where is that?

Q. That would be where Robinson Point light is. Did you see any lights on the shore there?

A. Well, I didn't notice any.

Q. Did you notice any lights on shore?

A. I noticed on shore at Browns Point or Dash Point there, as we passed by. In Tacoma—I saw it away in Tacoma after we got around Robinsons.

Q. Didn't have any trouble seeing the "Flyer's" lights in her cabin, did you, at all? A. Not at all, no.

Q. Any trouble seeing the "Indianapolis'" lights in her cabin?

A. I didn't notice the "Indianapolis".

Q. You didn't notice her at all?

A. No, I didn't. I saw some other vessels coming down, though, that I noticed.

Q. What other vessels did you see coming down loaded?

A. Well, we saw two or three vessels after the collision come down. I found out afterward one of them was the—

Q. Was the what?

A. Duffy said it was supposed to be the "Queen". Took our—I think it was the "Queen" he said—I don't know for sure it was the "Queen"; he said it would be the "Queen", because she was supposed to have our berth up there, and that is the time she was to be leaving. I think he said it was the "Queen".

Q. Did you hear your lookout report lights ahead?

A. No sir.

Q. You were not on deck when that was done?

A. No sir.

Q. Some ten minutes before the accident, you did not hear it some ten minutes before the accident?

A. No.

Q. Were you on deck some ten minutes before the accident, on the bridge some ten minutes before the accident?

A. No, I don't think so. I was on the deck about six minutes before the accident, I guess—six or eight minutes.

Q. Was Mr. Duffy on the bridge at the time, or was he down with you? A. He was on the bridge.

Q. He was not down with you?

A. No; he was not down with me.

Q. Did you see Mr. Duffy on the bridge when you came up there—

A. (Interrupting) Yes sir—

Q. (Continuing) —from below.

A. (Continuing) —I saw him on the bridge.

Q. Was Mr. Duffy in charge of the vessel and on the bridge all the time from Seattle until this accident?

A. Yes sir.

Q. Are you sure of that of your own knowledge?

A. Well, he was up there every time I went up there. I was up there three or four times.

Q. Had eight bells rung before this accident happened? A. I didn't hear it.

Q. What was your course after you had straightened away from Pully Point to Robinsons Point—do you know yourself?

A. Well, in the log book, I know the log book—what the log book gives.

Q. You don't know from your personal knowledge?

A. No.

Q. What is the variation on your compass on the inland waters, if you have any and know?

A. Variation or deviation?

Q. Deviation, I mean?

A. Well, it was 9 degrees westerly on the compass we were steering.

Q. On what course? A. Southeast courses.

Q. 9 degrees westerly? A. Yes.

Q. On your southeast courses. And you took your departure for Robinsons Point at about a half a mile off Pully Point?

A. The pilot did that, yes.

Q. You said it was shortly after you blew the three whistles on your vessel that you came together. How many seconds would you say that was?

A. Well, I would say it was a minute.

Q. When you hit the "Strathalbyn" how much by her did you go?

A. Didn't go by her at all.

Q. Didn't go by her at all?

A. No, not as—

Q. (Interrupting) Didn't your bow cross the bow of the "Strathalbyn"? A. Well—

Q. How? A. Cross her bow?

Q. Yes. A. No.

Q. Didn't your bow cross the bow of the "Strathalbyn"? A. No, I don't think so. We went—

Q. (Interrupting) That is, as near as you can tell about it, your bow did not cross the bow of the "Strathalbyn"?

A. No, she didn't cross the bow. She may have hit her and went into her bow, but she did not cross her bow. Our ship did not go across her bow, no.

Q. It did not go across her bow at all? A. No.

Q. Did not slide out of that wreckage on beyond the bow? A. No sir.

Q. You came right to a good standstill right there in that wreckage, did you?

A. No, we backed out of it. We were not together that much (snapping finger) before we were away from her.

Q. You went right up then and stopped while you were in the wreckage?

A. Stopped in it?

Q. Yes, and then drew right away again?

A. No, she didn't stop in it. She was stopped already before that.

Q. What was stopped?

A. The "Virginian". The "Virginian" was stopped before that.

Q. And the "Strathalbyn" ran into you—is that the idea? A. I would not be surprised.

Q. And struck you on the starboard bow?

A. Well, no, I don't say she did. She struck us near the stem.

Q. She struck you, did she—is that your idea of it?

A. She struck us.

Q. With her bow—did she strike you with her bow?

A. I don't know whether she struck us with her bow or not.

Q. You don't know? A. No, I don't know.

Q. That is what I thought. You could not see, in fact, could you?

A. I could not see her, no, to tell which way she struck us.

Q. And you could not see whether you struck her or not, then, could you? A. What?

Q. You could not see whether you struck her then, or not, could you? A. See whether we struck her?

Q. Yes.

A. No, because I could not see the hull of the ship, certainly not.

Q. Then when you testify that you struck her you mean to say you don't know anything about it?

A. I testify I struck her?

Q. That your ship struck the—that the “Strathalbyn” struck your ship on the—

A. (Interrupting) I don't say she struck us. I say we came together.

Q. I see. All right. Was any of your cargo damaged by this collision? A. No sir.

Q. How do you arrive at the distance of your bridge above the water in the condition you were in?

A. Measurement.

Q. Did you take the measurement yourself?

A. I told the mate to take it.

Q. Which mate? A. First officer, first mate.

Q. And then you say 40 feet from what he told you; is that it?

A. He gave it to me on a piece of paper. I asked him to measure it.

Q. Was it exactly 40 feet?

A. The light was 40 feet, I think.

Q. The light?

A. The lights—our lights above the water, 40 feet.

Q. I thought you said your bridge deck?

A. Well, the deck is on the lights.

Q. The lights are on the bridge deck?

A. On the bridge deck.

Q. You think he said 40 feet?

A. Well, I had it on a piece of paper and I don't know whether I have got the paper now. I left it aboard ship.

Q. That is as near as you can come to it, is it?

A. That is as near as I can come to it.

Q. So when you say 46 or 47 feet—a man standing up would be 46 or 47 feet above the water—

A. (Interrupting) That would be about where he would be, yes.

Q. A seven foot man would be—

A. (Interrupting) Yes, exactly. A six foot man would be 46 feet.

Q. So that 40 feet is kind of an estimate with you, is it?

A. No, the estimate is—40 feet is the measurement. The rail is 45 feet, I think that is it exactly; that is the measurement that was given to me after I asked the mate to get that. The light was 40 feet and the rail is 45 feet.

Q. Now, as I understand you, captain, the third officer reported to you that there was something ahead and you looked ahead for it and you could not see it, you could not make out the outline of it at all? A. No sir.

Q. You could not tell that there was a thing on the water out there? A. No sir.

Q. Is that it—not a possibility of doubt about that, is there? A. Not a possibility of doubt.

Q. There was not the slightest indication on the water at any time before she struck you, that there was a vessel ahead of you, except these four whistles that you heard? A. That is all.

Q. That is all? A. Yes sir.

Q. And you never saw her—sight of her or a glow from her, from a lamp or anything else, until after you had been struck? A. Yes sir.

Q. You never saw her hull or the loom of her hull until after you had struck? A. No sir. I didn't see—

Q. (Interrupting) You are absolutely positive of that, are you? A. Yes sir.

Q. And you were looking in that direction, were you? A. I was looking ahead and around.

Q. And you had not at any time prior to this accident and after or about the time you were turning Pully Point seen the lights of any vessels ahead of you, that is, between the time of the accident—or between the time after you turned Pully Point and the time of the accident?

A. Yes, I saw the "Flyer's" lights.

Q. Ahead of you—except the "Flyer"?

A. That is all.

Q. Absolutely. You were looking for it while you were on the bridge?

A. Well, I took a casual glance around. I was not

looking for lights particularly. I just looked to see how the vessel was going.

Q. In other words, the vessel was in charge of Mr. Duffy and you were not paying particular attention to its navigation?

A. Well, I was just taking a casual glance around. I saw everything was clear, I saw the "Flyer's" lights.

Q. (MR. HUGHES) Does that refer to the second time you came on the bridge, or the first time?

A. Well, this is the first time I was on the bridge.

Q. (MR. HAYDEN) Well, now, I am referring to the second. You mean you saw the "Flyer's" lights the first time you came on the bridge, or the second time?

A. The first time I came on the bridge, when the "Flyer" passed us.

Q. You saw the "Flyer's" lights the second time you were on the bridge, too, didn't you?

A. Sure, when I came on the second time, yes, but you are not talking about—

Q. (Interrupting) Before the collision? A. Yes.

Q. I am talking now of the time between the time you passed Pully Point and the time of the collision?

A. Yes, when I came on deck I saw the "Flyer's", you mean?

Q. Yes.

A. Yes. I didn't see any lights except the "Flyer's" lights.

Q. Before you came to Pully Point, before the telegraphing— A. Yes.

Q. (Continuing) —and before you went below—

A. (Interrupting) Yes.

Q. (Continuing) —when the "Flyer" had passed you, was abreast of you, looking ahead did you see any other lights of any ship except the "Flyer"?

A. No sir.

Q. Now, you said to Mr. Hughes that you made out the loom of this vessel as you were backing away from it? A. Yes.

Q. No question about that, is there?

A. No. I don't think there is any question about that. I made out the loom of her—

Q. (Interrupting) How far did you make out the loom of her, how far did you back away from her?

A. Well, I backed away from her, when we came to a standstill, backing away from her I think about 200 feet off; that is about the time I saw the red light too, between two or three hundred or four hundred feet.

Q. And you could see the loom of her that far at that time?

A. I could see the loom of her by the lights—what I took to be the loom of the ship, yes.

Q. You say your bridge is 200 feet from the bow?

A. About 200 feet, yes; between 175 and 200, I should judge.

Q. Do you think that you could have taken that light that would have come through the port holes in the bow of the vessel for a masthead light?

A. Yes, it could be taken—

Q. (Interrupting) Do you think you would have done it, as a navigator?

A. Well, it is hard to say about that.

Q. Well, I know it is hard to say, but I don't think you would, would you, captain?

A. I don't know whether I saw any lights from the port hole or not; I don't know whether there was any port hole there or not.

Q. I thought you answered counsel to that effect?

A. No, I said it might—there might be a light there. I don't know whether there was any light there or not.

Q. Do you think if there might be a light there in that position, that you would take that for a masthead light?

A. Well, I judge it by my own ship; I might, because we were about 40 feet above the water. When you get a mast foretop here 30 or 40 feet above the water it is pretty high.

Q. So that your lights shine out so that they will be taken for a masthead light?

A. No, we have our high up lights, 50 feet above the deck. You can see our lights plain.

Q. I am talking about port hole lights.

A. No, because you have got a row of them there, they could not be taken for—6—10.

Q. If there was a row of lights in the bow of the "Strathalbyn," they could not be taken for a masthead light?

A. No, not a row of them, no; if they showed a row of lights they could not possibly be taken for the masthead light.

Q. You say that this light that you took for the masthead light was about 200 feet aft of the—the range light was about 200 feet aft of this masthead light that you saw, or took to be a masthead light? A. Yes.

Q. Were the lights pretty good for judging distances, could you judge distances pretty well that night?

A. Well, I would not say you could, no.

Q. You would not say? A. No.

Q. Now, you said here that you walked across the bridge before the signal "Full speed astern"? A. Yes.

Q. Then walked to the starboard side?

A. I walked up on the—

Q. (Interrupting) Then the pilot had said "Full speed astern" and you were on the bridge thirty seconds. What do you mean by that?

A. I say from the time I heard the stop walked up out of my room, went up on the port side, walked across to the starboard side, I should judge it was thirty seconds had elapsed from the time I heard that telegraph ring "stop" until I heard him say "Full speed astern".

Q. Thirty seconds. Did you hear your vessel blow any signals, whistles, at all? A. No sir.

Q. (MR. HUGHES) You heard the three?

A. Oh, yes, the three whistles I heard. I heard them blow, told them to blow them myself.

Q. (MR. HAYDEN) You started out on deck immediately, did you, after you heard the telegraph—

A. (Interrupting) Yes sir.

Q. (Continuing) —telling the engines to stop. And it was about thirty seconds until the engines were rung down, "Full speed astern"?

A. Yes, thirty seconds to a minute from the time I left my room until the time of the "Full speed astern", I should judge, about.

Q. When you struck this vessel, were you trying to make out what she was?

A. I was trying to make out what it was—or what it was or what lights there was or something ahead, as soon as I got out on the bridge.

Q. Yes.

A. Yes, I was looking out ahead to see what was the meaning of this—

Q. (Interrupting) And after you hit her you were trying to make her out, were you. A. Exactly.

Q. That is what your mind was really centered on—trying to find out what was the trouble ahead of you, wasn't it? A. When I came on deck, yes.

Q. Yes, and after you hit her?

A. No, I knew what the trouble was after we hit her.

Q. Didn't you have something to do looking out for your own vessel, didn't you send a man forward to use some lights on your forecastle head there?

A. No, the engineer went forward and the mate went forward. They came out after the collision. They went forward.

Q. You were watching that, were you?

A. No, I was not, I was watching the ship ahead.

Q. Didn't pay any attention to what was going on in your ship then?

A. No, not exactly. Well, except running the bridge. I know I saw the mate go forward. He came right up about a minute afterwards and—

Q. (Interrupting) They went forward and took the glasses or electric light and put them down over the bow?

A. Took a light, yes, and went forward.

Q. To see how badly you were hit. And how long were you watching the "Strathalbyn" immediately after the collision, do you suppose?

A. Well, I should think we watched her for an hour afterwards.

Q. I mean how long was your attention centered on her in shifting around?

A. For an hour afterwards.

Q. Didn't see anything else for an hour afterwards?

A. Oh, yes, I saw some vessels pass us.

Q. Yes. What I am getting at is, how long was your mind entirely occupied by watching the "Strathalbyn"? What was going on in your ship after the col-

lision—giving signals to reverse and all the rest of it, stopping her after you had reversed?

A. Well, my mind was occupied practically an hour. I didn't want to get too close to that ship, nor I didn't want to get too far away from her.

Q. Did you send a boat or anything over to that ship to see what was the matter with her—lower a boat on your ship? A. No.

Q. Didn't do anything like that. While you were backing the vessel, what were you observing?

A. I was observing the "Strathalbyn".

Q. Your mind was entirely occupied by the "Strathalbyn" while you were backing the vessel?

MR. HUGHES: Oh, I object to that question as incompetent and immaterial.

A. No, not exactly; it was not occupied—it was occupied with my own ship too, and the "Strathalbyn" and things in general.

Q. (MR. HAYDEN) You said you saw the cargo of the "Strathalbyn" after the accident, the next morning, in Tacoma? A. Yes.

Q. And it looked to you to be on a level with the bridge. Did you take any measurements to determine whether it was on a level with the bridge or not?

A. No sir.

Q. You were considerably down below the cargo, I imagine, when you saw it, and it looked to you to be on a level with the bridge. A. Yes.

Q. Isn't it a fact that it looked to be considerably below the level of the bridge?

A. No, it looked to me just about level with the bridge. I was looking in connection with her light-boxes, not specially her bridge but in connection with her light-boxes, and it looked to me—

Q. (Interrupting) And you had the light-boxes specially in mind? A. Exactly, specially in mind.

Q. How much are those light-boxes above the bridge? A. What?

Q. How much are those light-boxes above the deck of the bridge?

A. Well, I don't know exactly how much.

Q. You didn't take special notice of that, did you?

A. No.

Q. So you did not take special notice of the lumber either, did you?

A. Yes, I noticed his deck load.

Q. You say that deck load was up to the level of the deck of the bridge?

A. I say it looked to me to be about on a level with the bridge. I would not say it was on a level with the bridge.

Q. Is there any reason why you can't see the difference of a couple of feet, that you know of, any ocular trouble, that you can't tell a couple of feet off?

A. No, I don't think so.

Q. That is as you recollect it now, that it was on a level? A. Yes sir.

Q. Or looked to be on a level. You don't want the Court to understand that you intend to be exact about that, do you? A. No, I don't.

Q. Now, you say that the deck load appeared to be on a level with the light-screens. You don't want the Court to understand that you mean to be exact about that, either, do you?

A. Well, to my knowledge or my idea the deck load was on a level with the light-boxes. Yes, I want that—that is my—what it looked to me.

Q. You want to testify positively that you saw the deck load on a level with the light-screens?

A. No, I won't say that, I won't say that. I will say to my—

Q. (Interrupting) You want the Court to understand that is the case, without testifying positively to it, is that it? A. No, I don't.

MR. BOGLE: He has testified that that was his view of it.

A. That is my idea about it. I don't—

Q. (MR. HAYDEN, interrupting) Just appeared.

MR. HAYDEN: I wish to make a demand for the production of the log, the mate's log and the engineers' log on this vessel.

MR. HUGHES: You will also produce your logs, I suppose.

MR. HAYDEN: Oh, we haven't any objection to

that at all. You can look at them now, if you want to; there is no objection to that at all.

An adjournment was here taken until 1:30 o'clock this afternoon.

AFTERNOON'S PROCEEDINGS.

January 31, 1912.

CAPTAIN JOHN S. GREEN resumed the stand.

Q. (MR. HAYDEN) Were you on an even keel when you left here?

A. That is without any list, you mean?

A. No, I mean forward and aft? A. No.

Q. How much were you drawing forward?

A. We were drawing about 17 feet forward.

Q. What were you drawing aft?

A. I would not be sure about that.

Q. How much were you down, approximately, by the stern?

A. Well, I think we were three feet by the stern.

Q. (MR. BOGLE) How much?

A. Three feet, I think. We have got that on record—what the draft was.

Q. (MR. HAYDEN) At the time of the accident the tseamer 'Flyer' was about three eighths of a mile ahead of you to the starboard?

A. Well, I think it was about a half mile, about three points on the bow.

Q. Might have been three eighths?

A. Yes, might have been three eighths.

Q. Was the "Flyer's" course parallel with yours after she passed you?

A. No, she was off—hauling off; she was more of an angle, was not parallel, a little on an angle.

Q. Do you remember answering this question asked you by the inspectors: The question is "Was the 'Flyer's' course parallel or about parallel with yours after she passed you?" And you answered "Yes, I should think it was parallel"?

A. No, I don't remember saying that.

Q. If you said that at the time before the inspectors, do you wish now to correct it or to say that you were correct at that time?

A. No, I say that—what I say now, that I think she was a little—

Q. (Interrupting) When are you going to get off the dry dock—you are at Bremerton now, aren't you?

A. We will get off tomorrow, I think.

Q. When did you go on? A. Went on Saturday.

Q. Last Saturday?

MR. HUGHES: Why do you ask that, for any special reason?

MR. HAYDEN: I just wanted to kind of find out, that is all.

MR. HUGHES: Well, but it is not cross examination. I don't want to be objecting.

MR. HAYDEN: I think that is all, Mr. Hughes. (Witness excused.)

JOE MIGUEL, produced as a witness on behalf of RESPONDENT and CROSS-LIBELANT, having been first duly sworn by the Notary to tell the truth, the whole truth and nothing but the truth, testified as follows:

Q. (MR. HUGHES) Are you a seaman?

A. Yes sir.

Q. How long have you been a seaman?

A. About six years.

Q. Are you on the "Virginian"?

A. Yes sir.

Q. How long have you been in the employ of the "Virginian"?

A. Been employed on the "Virginian" about eight months.

Q. In what capacity?

A. As quartermaster.

Q. How long have you been quartermaster of ships of that kind?

A. About a year and eight months.

Q. What was your duty the night of January 12th, the night of the collision?

A. I was on the lookout.

Q. What was your position as lookout—where, I mean?

A. I was on the starboard bow almost forward.

Q. You have no forecastle cabin. Flush deck?

A. Yes.

Q. About what time did you leave Seattle?

A. I didn't know. I had no idea what time. It was around somewheres about seven o'clock, in that neighborhood.

Q. You didn't take any note of the exact time?

A. No sir.

Q. Now, do you remember the "Flyer" passing you on your way to Tacoma?

A. Yes sir.

Q. About where was that with reference to what you now know to be Pully Point?

A. Oh, I should say Pully Point was almost abeam of us then.

Q. You remember the white light at Pully Point, do you? A. Yes sir.

Q. How did the "Flyer" pass you?

A. She was coming up on our port and then she crossed our stern and came up astarboard side of us.

Q. Passed by on your starboard side, did she?

A. Yes.

Q. Going in the same direction, but faster than you were? Yes sir.

Q. About how far was she off from you when she was abeam of you?

A. I should say about our ship's length away.

Q. That would be when she was opposite—when her beam was about opposite you, when you stood on the bow of the ship; you think she would be in the neighborhood of 500 feet away then? A. Yes.

Q. Your ship I believe is 492 feet long. Is that right? A. Yes sir.

Q. Did you notice whether she appeared to be running parallel or getting further off from you?

A. She was spreading away from us.

Q. After she had passed you, did you hear any single blast of whistle from a point ahead?

A. Yes sir.

Q. Did the "Flyer" answer it?

A. Yes sir, the "Flyer" answered it.

Q. About where was the "Flyer" when she

answered that whistle, where with reference to your position on the bow of your ship?

A. She was quite a bit past us.

Q. And on your starboard bow? A. —bow.

Q. Did you afterwards hear another whistle from ahead?

A. Yes sir, I heard another whistle, sir.

Q. From the same apparent source as the first, that is, it was not from the "Flyer"? A. No sir.

Q. How long was that after the whistle that the "Flyer" answered?

A. I think it was about a minute.

Q. Up to that time had you seen any light of any ship from which this whistle could proceed?

A. I could see—I saw a red light and I reported it.

Q. What red light did you see?

A. I saw Robinson light.

Q. When did you see or report that?

A. I saw that after the "Flyer" had whistled to us and we answered her.

Q. That is then about just before you were abreast of Pully Point?

A. We were there somewhere.

Q. Some place opposite Pully Point? A. Yes.

Q. Now, this red light that you saw you reported as a red light did you?

A. I didn't say the color—I just reported it.

Q. What?

A. I didn't give the color of the light.

Q. What did you report?

A. I reported the light on the starboard bow.

Q. This light was how much on your starboard bow when you reported it?

A. It was about a point.

Q. And did you notice that light all through the evening from that time on? A. Yes sir.

Q. So that you see what light it was?

A. Yes sir, I noticed that light right along.

Q. What light was it?

A. It was Robinson light.

Q. You saw the same light after the collision?

A. Yes sir.

Q. Clear on until you got to Robinson Point, didn't you? A. Yes sir.

Q. But I am asking you whether you saw any ship's light at the time or after hearing either of these two whistles?

A. No sir, I didn't see any other ship's light.

Q. When the second whistle was given, did your ship answer it? A. No sir.

Q. Did you hear another single blast from ahead?

A. No, I didn't hear any. I went forward, you see, more towards the bow, and the wind was blowing a little harder there and I didn't hear any other whistle.

Q. You don't remember hearing another whistle?

A. No sir.

Q. You mean single blast?

A. I mean—when I say not hearing a whistle I mean single blast.

Q. Did you afterwards hear four blasts from ahead of you?

A. Yes sir, I heard four blasts afterwards.

Q. About how long after the last single blast you had heard, if you know?

A. Two minutes, about.

Q. Had you been looking out all the time?

A. Yes sir.

Q. From the time that you heard the first whistle that was given to the "Flyer" until you heard these four blasts, did you see any masthead or range or side lights of a ship from which that whistle could come?

A. No sir, I didn't see any lights at all, sir.

Q. And were you looking ahead all the time?

A. I was looking towards that direction where the sound came from.

Q. Could you see the outline of any ship from which it might come, up to the time you heard the four whistles?

A. No sir, I didn't see anything.

Q. (MR. HAYDEN) What is that?

A. I didn't see any outline.

Q. (MR. HUGHES) Did your ship answer those four whistles? A. Yes sir.

Q. By three? A. With three.

Q. Now, about how long after that was it before the ships came together?

A. Well, about a minute or so—

Q. (Interrupting) It is hard to give any exact time. I just want your idea. You think in the neighborhood of a minute, as it seemed to you—is that right?

A. Yes sir.

Q. Did you see anything of this vessel before the collision, and, if so, when and what did you see?

A. Just before the collision I heard some one out in the darkness there sing out "Look out on the fore-castle head" and then I looked out there and I could just make out the hull of a vessel coming down.

Q. How long was that before the ships came together?

A. Just a few seconds. Just gave me enough time to get away.

Q. When you heard this voice, what did you do?

A. I looked out and I saw that dark object coming to us and I ran aft.

Q. About how far did you go aft?

A. Just about 20 feet.

Q. And that would put you about how far back from the stem of your ship, from the outer bow of your ship?

A. The stem would be just about 30 feet.

Q. Could you get any idea how those two ships came together in the darkness there?

A. They seemed to come almost at right angles; that is the way it seemed to me. I could not see exactly.

Q. What do you mean by right angles, as though the other ship was going across your course, do you mean?

MR. HAYDEN: I object to that as leading.

A. About that. At first I thought she wanted to cross our bow.

Q. But could you see the outline of the ship sufficiently to tell any more than—

A. (Interrupting) No sir, I could not see.

Q. Now, what did your ship do then, what occurred after the two ships came together?

A. Well, as soon as they came together, why, they

separated again, and I noticed the other ship—she turned around towards Tacoma again, and then I saw a red light.

Q. What did your ship do when they separated—as they separated?

A. Our ship seemed to be going back away from her.

Q. You say you saw a red light? A. Yes sir.

Q. What kind of a light did that appear to be, bright or dim?

MR. HAYDEN: I object to that as leading and suggestive?

A. It was not very bright.

Q. (MR. HUGHES) What?

A. It was not very bright.

Q. As you backed away from her, did you see any other lights on the deck or above the deck of the ship that you collided with?

A. Yes, I seen a few lights down around the deck, and I seen a white light a little further up. I didn't think it was a masthead light, because it did not seem high enough for that.

CROSS EXAMINATION.

Q. (MR. HAYDEN) You say you have been with the "Virginian" about six months?

A. About eight months, I said.

Q. Or eight months. Were you on watch when they left Seattle? A. Yes sir.

Q. Had eight bells rung before this accident happened. A. No sir, eight bells had not rung, sir.

Q. How long after the accident before the eight bells rang? A. I didn't hear them.

Q. Was there anybody else on the lookout but you?

A. No, I was all alone forward on the deck.

Q. Were you all alone forward on the deck?

A. Yes sir.

Q. All the time? A. All the time.

Q. From the time that you left Seattle until the collision? A. Yes sir.

Q. Nobody else there at all?

A. Only passed by going down below in the fore-castle, but they never came forward where I was.

Q. Nobody else on the lookout at all besides you?

A. No sir, no one else.

Q. No one else at all. Was the man who put the light over the bow of you after the collision around on the forecastle head, that you noticed, at all, before this collision? A. No sir, he was not around.

Q. That you noticed. A light that you reported on the port bow was a red light, was it?

A. I reported a light on the starboard bow; that was a red light.

Q. Did you report any light on the port bow at all?

A. Yes, I reported a white light.

Q. A white light on the port bow?

A. But that is long before that.

Q. At Pully Point light? A. Yes sir.

Q. Did you report any other light except Robinson Point light and Pully Point light that night after you got out towards Pully Point?

A. I reported a few lights, but I don't know what lights they were—shore lights.

Q. Did you see any vessels pass you after the "Flyer" passed and before the collision?

A. No sir, I didn't notice any.

Q. Did you notice any vessel coming around Robinson Point light after you were about or close to Pully Point light, coming from the direction of Tacoma towards you? A. Before the collision?

Q. Before the collision.

A. No sir, I didn't notice that.

Q. How long before you got abreast of Pully Point was it that you saw this red light that you say was Robinson Point light?

A. Well, I don't know how long it was, but I know the "Flyer" blew to us and we answered her and I reported that light right after that.

Q. Right after the "Flyer" blew to you?

A. Yes sir.

Q. Immediately after?

A. It was just within a minute or so.

Q. Did you see any other vessel pass you that night but the "Flyer"? A. I didn't notice any.

Q. You didn't notice any.

A. When we were near Tacoma I saw the "Flyer" coming back towards us.

Q. Yes. That is the only vessel, though, that you saw pass you coming this way, coming from Tacoma to Seattle? A. That is all I recollect now.

Q. You don't recollect having seen the "Indianapolis" meet you? A. No sir.

Q. You were on the lookout there all the time?

A. Yes sir.

Q. How far in distance would you say you had run beyond Pully Point before you collided?

A. I have no idea.

Q. How close were you to Robinsons Point light?

A. Oh, we were quite a ways off from Robinson Point light.

Q. A mile, two miles?

A. I would not attempt to say; I have no idea.

Q. Were you nearer Robinson Point than you were Pully Point at the time of the collision?

A. No sir, we were nearer Pully Point.

Q. About what would you say would be the proportion of distance, a third of a half? A. Nearer a third.

Q. About a third. How much would you say the "Flyer" was ahead of you, in distance, when you heard the first whistle given to pass the "Flyer"?

MR. HUGHES: You mean that first whistle from ahead?

MR. HAYDEN: Yes.

MR. HUGHES: The first whistle from the "Strathalbyn"?

MR. HAYDEN: The first whistle from ahead, when the "Strathalbyn" was giving it to pass the "Flyer"?

A. She was quite a ways ahead of us. I could not notice just about how far she was—I could not tell just how far.

Q. (MR. HAYDEN) Quite a good distance, though. A. She was way ahead.

Q. Was ahead? A. Way ahead of us.

Q. As much as a mile?

A. Oh, I don't think it was that much.

Q. You heard one whistle then and the "Flyer" answered one whistle? A. Yes sir.

Q. Did you know what that meant? A. Yes sir.

Q. What did it mean?

A. It meant that she wanted to pass on the star-board side—I mean on the port side.

Q. That is, that he wanted to pass port to port?

A. Yes sir.

Q. Did you report that whistle to the bridge?

A. No sir, I didn't report it, sir.

Q. Is that a part of your duties to report whistles when you hear them?

A. In a fog it is, but it was a clear night, at least it was not foggy.

Q. How far were you off from the "Strathalbyn" when you saw what you took to be her masthead light after the collision?

A. Oh, could not have been very far; she was alongside of us then.

Q. How far was it?

A. It must have been a few hundred feet or so, two or three hundred; I have no idea.

Q. You haven't any idea?

A. No sir, I have no idea.

Q. How far off were you when you saw the red light on the "Strathalbyn"?

A. I saw the red light before I saw the white light.

Q. How far were you away when you saw the red light?

A. We had separated a little and she had turned around towards Tacoma again.

Q. How far away were you?

A. I don't know how far it was. We were pretty close to her.

Q. Well, you can give me some idea of the distance, can't you? A. About 200 feet.

Q. About half your boat's length, do you think?

A. Oh, a little less than half.

Q. A little less than half. When you collided, did the bow of your vessel pass across the stem of the "Strathalbyn"? A. I don't think it did.

Q. You don't think it did? A. No sir.

Q. Didn't you strike the "Strathalbyn" on the port side? A. I don't know what ship struck.

Q. No, you don't know. A. No sir.

Q. But didn't your bow go across onto the starboard side of the "Strathalbyn"?

A. No sir, I didn't notice it.

Q. You don't know. Why can't you tell?

A. Because as soon as they touched they separated again. They were not together very long.

Q. Just as soon as they touched they separated, did they? A. Just about as soon—

Q. (Interrupting) Have you seen the "Strathalbyn" since the collision. A. I saw her from the collision.

Q. Did you see any damage to her bow?

A. I saw some damage on the starboard bow.

Q. And do you know which side you struck her on, or you came together on, if you choose to put it that way?

A. Well, if we struck her we must have struck her on the port side.

Q. Well, then did your bow go across the bow of the "Strathalbyn"? A. No sir, we didn't go across the bow.

Q. You didn't go across the bow? A. No.

Q. You struck at about right angles, you say?

A. Pretty near right angles.

Q. Did the "Strathalbyn's" bow go across yours?

A. I don't think it did either.

Q. You don't think either bow got across the other one—is that right? A. Yes sir.

Q. That is the way it looked to you, was it?

A. It looked to me that way.

Q. How much above the "Strathalbyn" were you on the forecastle there?

A. I don't know. When we were together I could look way down on her; I don't know just how many feet below she was.

Q. You were way above her?

A. Yes, way above her.

Q. What is the height of your bow from where you were standing to the water, about?

A. About 30 feet. Just a guess.

MR. HAYDEN: Is that about right, captain?

CAPTAIN GREEN: Yes, I think that is about right, about 30 feet.

Q. (MR. HAYDEN) What did you first see on the "Strathalbyn", how did she appear to you when you first saw her?

A. Well, it looked like—I don't know what it did look like—just some dark object coming towards us; had no shape to it at all.

Q. Had no shape. How much of it could you see in length, did it look like a long object coming towards you, or a short object?

A. It looked like a round object, to me.

Q. It looked like a round object? A. Yes.

Q. You say you struck about at right angles to each other, apparently? A. Yes sir.

Q. That is you mean you struck, you came in contact—when you came in contact you were at right angles with each other—is that what you mean?

A. Yes, about at right angles.

Q. You were how many feet away from the bow of the "Virginian", standing at the time?

A. When we came together?

Q. Yes. A. I was about 30 feet away.

Q. About 30 feet away?

A. Yes, from the stem.

Q. Were you looking at the "Strathalbyn" after you got the loom of her all the time?

A. No sir, I went back and turned around and then I seen her again just as they came together.

Q. Saw her just as they came together. Then when you got the loom of her you ran away, you didn't look at her until you got in safety?

A. Oh, I heard the sailor on the forecastle head so I got away.

Q. You say you saw the loom of her a minute or two before they came together?

MR. HUGHES: He didn't say that.

A. A few seconds.

Q. (MR. HAYDEN) How many seconds?

A. Oh, it could not have been more than ten seconds.

Q. Ten seconds?

A. It could not have been more than that, perhaps less.

Q. Didn't you see the loom of her a little while before that? A. No sir.

Q. Didn't you? A. No sir.

Q. Did you see any lights at all, any indication of light? A. No sir.

Q. Didn't see any glow at all in the chart room where the light was burning?

A. No sir, I didn't see anything at all.

Q. Absolutely nothing? A. Nothing.

Q. Didn't see the masthead light? A. No sir.

Q. Wasn't burning, as far as you know.

A. As far as I know it was not.

Q. You didn't see the side light? A. No sir.

Q. At the time of the collision?

A. At the time of the collision?

Q. Or just before?

A. I had not seen anything at the time or just before.

Q. But you saw it just after? A. I saw it after.

Q. You say you saw what you took to be the masthead light; is that it? A. Yes sir.

Q. How high would you say that light was above the water?

A. Seemed to be about the level with the bridge, it seemed to me.

Q. Level with their bridge?

A. Yes, level with their bridge.

Q. That is, you were looking down on it from your height? A. Yes.

Q. How did you know it was level with their bridge could you see their bridge?

A. Well, I seen some white lights down on deck right where the bridge was—

Q. (Interrupting) Down where?

A. Down on the deck, on the cargo somewheres.

Q. On the cargo? A. Yes.

Q. Is the bridge level with the cargo? A. Yes sir.

Q. Well, could you see the bridge?

A. I could see some white paint work right there by the lights.

Q. How much above those lights?

A. Oh, I could see it right back I think and up.

Q. How far up?

A. Oh, I don't know how far up it was. About 8 feet or so.

Q. 8 feet or so? A. 6 or 8 feet.

Q. And this light that you saw afterward looked to you to be on a level with that?

A. I thought it was in the wheel house itself.

Q. In the what? A. In the wheel house.

Q. In the wheel house itself, and then afterwards you thought it was where?

A. I thought it was the masthead light.

Q. Didn't seem to be in the wheel house afterwards, seemed to be up on the mast afterwards, did it?

A. No, I didn't know where it seemed to be. I took it to be a masthead light because—

Q. (Interrupting) Did at any time you finally conclude it was a masthead light?

A. When we were on our way to Tacoma, after a long time, I took it to be a masthead light.

Q. You are sure it was a masthead light then, are you? A. I thought it was then.

Q. And you think it was a masthead—you now think it was a masthead light, do you?

A. I am not sure.

Q. You think so?

MR. HUGHES: He has answered.

A. It was not high enough to be.

Q. (MR. HAYDEN) Was not high enough to be. Do you know how high it was? A. No sir.

Q. Now, there is no question but what you saw the red light first?

A. I saw the red light, but only for a short while.

Q. Just for a short while? A. Yes sir.

Q. And there is no question but what that red light was the side light, is there. A. No question.

Q. It was a side light all right, was it? A. Yes sir.

Q. You say you only heard one whistle to you from the "Virginian"? A. To us, yes sir.

Q. And how long was that before the collision?

A. It was about two or three minutes.

Q. Two or three minutes before the collision. And

then what did you hear after that, the next thing you heard after that?

A. I heard four whistles.

Q. How long was that after the one whistle to you?

A. Seemed about two minutes.

Q. About two minutes. Then what did you hear after that? A. I heard the answer.

Q. How long did it take you to answer after you heard four whistles from her?

A. Oh, didn't take a second.

Q. Answered immediately, did you? A. Yes sir.

Q. Then how long was it before you came into collision? A. Oh, almost a minute.

Q. Almost a minute. And what were you doing between the time that you heard the three whistles from your vessel and the time of the collision?

A. I was looking ahead to see if I could see that ship.

Q. Didn't you run back?

A. Not until I heard him holler.

Q. Not until you heard him holler? A. No sir.

Q. And you heard him holler immediately that you came together in the collision, didn't you?

A. Just shortly before—two or three seconds.

Q. Just shortly before. Which way were you heading when you got through this collision, did you notice the shore?

A. Why, I noticed Robinson Point, we were heading about the same way.

Q. You were heading for Robinson Point after the collision, after you had swung away from the "Virginian"? A. We—

Q. I mean from the "Strathalbyn"?

A. We didn't swing very much away from her.

Q. You were at right angles to the "Strathalbyn" at that time?

A. As soon as we were struck we were almost.

Q. And then you backed away; is that right?

A. Yes sir.

Q. And then you were heading for Robinson Point when you straightened away after backing away; is that right?

A. Yes, we were heading in the same direction, almost the same direction.

Q. You did not change your direction at all?

A. Very little, if any.

Q. Very little. And yet you struck the "Strathalbyn" at right angles and you did not change your course at all? A. Not that I know of.

Q. It looked to you just as if you were going for Robinson Point all the time, did it?

A. Yes sir, it seemed that way to me.

Q. It seemed that way to you. And you had Robinson Point about a point on your bow all the time; is that it—Robinson Point light?

A. No sir, it was not a point all the time, it kept getting more and more all the time.

Q. Kept getting more and more all the time?

A. As we came closer to it.

Q. Kept getting more and more all the time. Well, how much of it was off of your bow just before the collision? A. About a point.

Q. Well, that is what I ask you.

A. You asked me all the time.

Q. I meant up to the collision. It was about a point on your bow immediately at the time of the collision, was it? A. Yes sir.

Q. Just about one point? A. Just about a point.

Q. And you collided at right angles with the "Strathalbyn"? A. Almost at right angles.

Q. You could make that out very distinctly from where you were standing, the angles of those vessels, could you?

A. No sir, I could only see from the bridge forward on the other ship.

Q. What do you mean by that?

A. Well, I could only see half of her length.

Q. What has that got to do with your meeting at right angles? A. Well, you asked me—

Q. (Interrupting) Isn't that long enough for you to have determined whether you were meeting at right angles? A. Yes.

Q. Then what has that got to do with your answer—

ing my question if you could see at right angles—see that you were meeting at right angles?

A. I didn't hear your question.

Q. I asked you if you didn't meet her—when you came together if you were not at about right angles?

A. Yes, we were at about right angles.

Q. From the time you left Pully Point until the collision you had the light of Robinson Point about a point off your bow; is that right? A. Yes sir.

Q. Right up to the time of the collision—is that the way you want it to be understood? A. Yes sir.

Q. Now, immediately after the collision where was that light from your bow?

A. I could not say immediately. A minute or so after I was—the mate was up there, the fellows around there, getting around their lights and so on, and I was not noticing that light all the time, I didn't have my eye on it all the time.

Q. When the "Strathalbyn" was approaching you and you were looking for her there you were not watching Robinson Point light there either, were you?

A. Well, I could see that light.

Q. Were you looking at Robinson Point light when you were looking for the "Strathalbyn"?

A. I didn't know there was a light out there.

Q. You didn't know there was a light out where?

A. I didn't know it was Robinson Point light I could see all the time.

Q. You didn't know it?

A. I thought it was a steamer.

Q. Robinson Point light was a steamer?

A. Yes sir.

Q. That is just exactly what I thought, too, and that is the light you had on your bow, a point off your bow, exactly, isn't it? A. Yes sir.

Q. That is it exactly—the cat is out of the bag—that is the light that you ran into, isn't it? A. No sir.

Q. How? Come, tell me now, isn't that the light you ran into?

A. No, that is not the light we ran into.

Q. That is the light you ran into?

MR. HUGHES: Let me suggest this is not a justice court and we have not a jury here.

Q. (MR. HAYDEN) That is the only light you saw, wasn't it—the one you subsequently found out you had run into?

A. No, I saw the other light on the other—a red light on the ship after that; I still could see that red light ahead of us.

Q. Oh yes, you could see two red lights then, after the collision, but only saw one before the collision; is that it? A. And I saw one after.

Q. You kept about a point on your bow all the time until the collision, is that it—kept that red light about a point on your bow until the collision; is that it?

A. Oh, just had it there but a short time.

Q. Just had this red light for a short time a point on your bow?

A. Well, I had not seen that light very long, you know, before the collision.

Q. You hadn't seen what light very long before the collision? A. That bright—red light.

Q. You had not seen it very long before the collision. But you saw it right after the collision, did you?

A. I saw that red light before the collision.

Q. Well, which one was it that you had not seen very long before the collision?

A. I had not seen either of them very long.

Q. Had not seen either one very long before the collision?

A. I saw one bright red light a few minutes before, I don't know just how long it was.

Q. How long was it now?

A. Oh, I had no idea of the time.

Q. But that is the one that you followed right up and kept a point off your bow, was it?

A. You mean to say that was the light on the ship?

Q. Yes, that is what I mean to say.

A. No sir, that was not the light.

Q. You saw two lights after the collision, though?

A. I saw two red lights and after the ship separated from us a little bit I lost sight of her red light.

Q. You lost what? A. I lost sight of her red light.

Q. How long were those ships together after they hit? A. You mean touching together?

Q. Right there with their bows towards each other?

A. Two or three seconds.

Q. Two or three seconds. Could not have been very much headway on either ship then, could there?

A. I don't think so.

Q. You don't think so. There was not any headway on your ship at all, was there?

A. I don't think there was any.

Q. None at all, that is your idea about it—is that your idea about it? A. That is my idea of it.

Q. Did you look over the water, see anything on the water to tell whether there was or not?

A. I looked over afterwards, I seen she was going astern.

Q. But I mean before the collision did you look over to see whether she was making headway or not?

A. I had looked over, but I could not see very well whether she was making headway or not.

Q. But the two vessels came together; you took it that the other one was the one that was moving; is that it? A. That is the way I took it.

Q. Did you see anything that you mistook for a range light—after range light, after this collision?

A. I don't think she had any range light. I could see white lights on her deck.

Q. Those were the lights carried by the men, the lanterns, were they?

A. I think they were. They were flickering all the time.

Q. Did you see this masthead light and this red light on the side go up and then go out and then go up and go out again?

A. I just saw that red light about—oh, I don't know, about a minute or so, and then I could not see it any more.

Q. Went out again, did it?

MR. HUGHES: He says he didn't see it.

Q. (MR. HAYDEN) And did you look for it any more? A. Yes, I looked for it all the time.

Q. Looked for it all the time. Were you ahead of the "Strathalbyn" or behind her at that time?

A. At that time she was—we were abreast of her.

Q. Right abreast or two points—more than two points abaft her beam?

A. No, I think we were about abreast of her.

Q. And how do you know you were abreast of her, could you see her?

A. No sir, I could not see her. I could just judge by those lights on her deck.

Q. And those lights were not stationary lights, were they? A. No sir.

Q. How far did the "Strathalbyn" get ahead of you when you were coming to Tacoma after the collision?

A. Oh, she didn't get ahead of us very much. We kept up with her for quite a while.

Q. How long were you in company with the "Strathalbyn" altogether?

A. Pretty near an hour, I should say.

Q. Pretty near an hour? A. Yes sir.

Q. What time did you get into Tacoma?

A. 11:15 about.

RE-DIRECT EXAMINATION.

Q. (MR. HUGHES) You spoke of being at Tacoma at 11:15. Was that after you had made fast at the dock, did you notice your watch?

A. No, I didn't notice. I noticed that clock out there, that clock.

Q. The clock there in Tacoma? A. Yes.

Q. When was that, after you had made fast to the dock?

A. I don't know if she was all made fast or not, but we were about there somewheres coming in or so. I didn't take notice.

Q. Speaking of this red light you saw you reported about the time you passed Pully Point or somewhere along there, was that the same light—red light that you speak of seeing right along after that?

MR. HAYDEN: Objected to as leading and not proper cross examination.

A. Yes, that is the same light. It is the same light, sir.

Q. (MR. HUGHES) And you reported that when you were just about off Pully Point?

MR. HAYDEN: Same objection.

A. We were about there somewheres.

Q. (MR. HUGHES) Now, after the immediate excitement of the collision, when the ships had pulled apart, did you observe this same red light ahead of you?

A. Yes sir, I observed that same red light.

Q. Was that in the same direction as the dim red light that you say you saw for a minute or so on the "Strathalbyn"?

MR. HAYDEN: Objected to as leading.

A. No sir, it was not in the same direction.

Q. (MR. HUGHES) Did I understand you correctly to say that the first that you could make out this ship by seeing any part of the vessel was after you first began to see lights on her? A. I didn't get your question.

Q. Were you able to make out anything more than sort of a loom,? that looked like a round loom to you, were you about to get anything like the dimension of a ship—of the fore part of the ship—before you saw lights on her? (No response.)

Q. To make it clear, I understand you to say that you saw sort of a loom just about the time the lookout called out to you? A. Yes.

Q. That the other fellow called out to you to look out, and looked like a round object to you. Now, after the collision you spoke of seeing the foreward part of the ship—of the "Strathalbyn"; was that after you saw white lights on her?

A. Yes, it was after I saw the white lights on her.

Q. So that it would give you some—

A. (Interrupting) Idea of the—

Q. —of the shape. Now then, that was the first that you could make out the shape or position of the ship, was it? A. Yes sir.

Q. Was that after you had backed away from her a little bit, a little ways?

A. That I could make out her shape?

Q. Yes.

A. Yes, after we had backed out, then I could make out the shape of the fore part of the steamer.

RE-CROSS EXAMINATION.

Q. (MR. HAYDEN) What direction was it that you saw this red light on the "Strathalbyn" from your ship?

A. It was almost on our beam when I first saw the red light on her

Q. It was almost on your beam?

A. From where I was standing. Almost at right angles from where I was.

Q. Almost at right angles from where you were. Which side of you? A. On the right side of me.

Q. On the right side of you? A. Yes sir.

Q. (MR. HUGHES) Is that the right or starboard side of the ship—the starboard side of your ship?

A. No, it was the starboard side of our ship.

Q. (MR. HAYDEN) The starboard side of your ship? (No response.)

JOHN D. McLEOD, produced as a witness on behalf of respondent and cross-libelant, having been first duly sworn by the notary to tell the truth, the whole truth and nothing but the truth, testified as follows:

Q. (MR. HUGHES) Give your name and age?

A. John D. McLeod; thirty-eight.

Q. What is your business, Mr. McLeod?

A. Seaman.

Q. How long have you been a seaman?

A. Twenty-two years.

Q. How long have you been engaged on steam vessels? A. Oh, about six years.

Q. How long have you been third officer?

A. On the ship?

Q. On this or any other ship?

A. Oh, I have master of a ship, mate.

Q. Master and mate of other vessels? A. Yes sir.

Q. Steam or sail?

A. I have been master of sail and been mate of steam.

Q. How long have you been third officer—those were smaller vessels, were they?

A. Yes, smaller vessels than this.

Q. How long have you been third officer of the "Virginian"? A. Second trip.

Q. (MR. HAYDEN) What is it? A. Second trip.

CAPTAIN GREEN: It is about three months, isn't it? A. Yes, it is between three and four months.

Q. MR. HUGHES) How long have you been in the employ of this same steamship company, the Hawaiian-American or American-Hawaiian Steamship Company? A. Oh, about six months altogether.

Q. Were you third officer on duty on the evening of January 12, the night of this collision? A. Yes sir.

Q. You left the Oriental Dock in Seattle for Tacoma, did you? A. Yes sir.

Q. About what time did you leave Seattle.

A. We let go at 7:40.

CAPTAIN GREEN: No, no.

Q. (MR. HUGHES) You mean 6:40?

A. Or 6:40, I mean to say, yes, 6:40, yes.

Q. Mr. McLeod, were you on the bridge all the time up to the collision? A. Yes sir.

Q. After you left Seattle?

A. I was there all the time, yes sir.

Q. Do you remember passing Pully Point?

A. Yes sir.

Q. Do you remember the steamship "Flyer" overtaking and passing you? A. Yes sir.

Q. About where was that?

A. Right off Pully Point.

Q. Had you got abreast of Pully Point when the "Flyer" began to pass off your starboard?

A. We had passed Pully and changed our course.

Q. And you changed when?

A. Right off Pully Point.

Q. When you were about abreast or abeam, I mean, of the light?

A. When we had Pully Point light abeam we changed our course.

Q. Had you swung out any for Pully Point?

A. Yes sir, we hauled out a quarter of a point.

Q. When you got abeam of Pully Point light, what course did you then put the ship on?

A. Southeast by south, on the bridge compass.

Q. That would be what, magnetic?

A. About southeast quarter south, approximately; that is not exactly.

Q. When you took your course for Robinson—when you changed your course it was for Robinson Point, was it? A. Well, we changed our course—

Q. (Interrupting) I mean when you took your last course—is that your course?

A. To pass—that was the course to Robinson Point, yes.

Q. To pass Robinson Point. Did you see Robinson Point light at the time when you took this course?

A. Yes sir.

Q. Had you seen it before that? A. Yes sir.

Q. What kind of a light is that?

A. Well, it was a bright red light that night.

Q. Was that light visible all the time until you finally, an hour or two later, passed Robinson Point?

A. I didn't quite catch that, Mr. Hughes?

Q. I say, was that Robinson Point light all the time visible after you left Pully Point until—

A. (Interrupting) Yes sir, yes, it was a visible light.

Q. Now, how did the "Flyer" overtake and pass you, just explain?

A. Well, she came up on the port quarter, passed our stern and passed on the starboard side.

Q. Did she signal to you? A. She gave one blast.

Q. And you answered it? A. We answered.

Q. Was that before or after you were abeam of the Pully Point light?

A. Well, she passed us just off Pully Point.

Q. Did you take note of the time when you had Pully Point light abeam? A. 7:53.

Q. You took note of that yourself?

A. I noted it, yes.

Q. That was by your watch, was it?

A. By my watch, yes sir. My watch was set with the wheel house clock.

Q. About how far off your starboard side did the "Flyer" pass?

A. Well, I should judge one hundred yards.

Q. After she passed by you, did she appear to have changed her course or was she pulling away, spreading off from you?

A. Well, she was not steering the same course as us; she was steering a more southerly course than we were.

Q. That would spread her apart from you? A. Yes.

Q. More to starboard as she proceeded ahead?

A. Yes, we would separate that way.

Q. Did you hear afterwards a whistle ahead, that the "Flyer" answered? A. Yes sir.

Q. About how long after you had passed Pully Point was it that you heard those two whistles?

A. Two whistles?

Q. That is, the one from the one vessel which the "Flyer" answered?

A. About two minutes. She had passed us about two minutes.

Q. About what was the situation and position of the "Flyer", as nearly as you could observe, at the time when those whistles passed—when those whistles were given, I mean?

A. Well, she was broad on the starboard bow. She had passed us two minutes about, so she—so you could estimate that.

Q. When you heard those two whistles, could you see the vessel which gave the whistle which the "Flyer" had answered? A. No sir.

Q. Were you looking out, what were you doing?

A. We were looking out. We heard the whistles but could not see anything.

Q. Where were you?

A. I was standing on the starboard side of the bridge.

Q. Did you hear another whistle after that?

A. Yes sir.

Q. Coming from the "Flyer" or from some other objects ahead?

A. Well, it did not appear to be from the "Flyer".

Q. It did not, you say? A. No sir, did not.

Q. Well, what effort, if any, did you make to locate the vessel from which that whistle came?

A. Well, we stopped the engines the first time we heard the whistle.

Q. That is, after the "Flyer" had answered.

A. After the "Flyer" had answered, yes.

Q. Were you attempting to locate her?

A. We certainly were. We heard her whistle, but could not see the lights. Naturally we would look out to see what was—

Q. (Interrupting) Well, what was the next thing that occurred after you stopped your engine?

A. Well, we stopped and heard another whistle. The engines were set astern about that time.

Q. Full speed?

A. Full speed astern, yes sir. The pilot—

Q. (Interrupting) Did you answer that whistle?

A. Which—passing signal?

Q. Yes.

A. No, we didn't answer it because we could not see anything—any lights.

Q. What was the pilot doing?

A. The pilot was standing on the other side. He had got his glasses and looking out to see if he could make anything out with his glasses.

Q. What do you mean by the other side, the starboard side? A. The starboard side, yes.

Q. Had you gone up to the wheel house to give the signal "Full speed astern" yourself?

A. I went amidships to the telegraph.

Q. That is what I mean.

A. Yes, and I stood there at the time we stopped her.

Q. About when was it that the captain came on deck, in reference to the time you gave that signal "Full speed astern"?

A. The captain came up just as soon as I had given the signal to stop, immediately.

Q. That is, he came up then after your signal to stop. How long was he on deck before your signal was actually given to go full speed astern?

A. Well, I guess about two minutes. Between one and two minutes.

Q. Well, after the signal to go astern what occurred?

A. Well; about two minutes after that the collision occurred.

Q. Well, was there an alarm signal given ahead of you before the collision occurred?

A. Yes, they blew a danger signal. Our engines were going astern at the time. We answered with three blasts.

Q. How long was that danger signal given before the collision actually occurred, before the boats came together? A. Well, I guess inside of a minute.

Q. Did you see this vessel or any lights on her prior to the impact of the two vessels in coming together?

A. I saw a white light.

Q. When? A. Oh, it was right close aboard.

Q. Well, how close or how short a time before the collision? A. Well, too close to avoid a collision.

Q. Well, now, I am trying to get at here whether it was ten or twenty seconds or how long, in your best judgment?

A. It was in seconds—I could not just say—very close.

Q. Could you see the outline of the vessel before the collision? A. No sir, I could not see her outline.

Q. Did you hear any outcry from ahead?

A. At the time of the collision I heard an outcry, yes sir.

Q. What occurred immediately after the two vessels had collided, come together, struck each other?

A. Well, we backed away from her. Didn't seem that—

Q. (Interrupting) Did any time elapse after the actual impact of the two vessels before your vessel began to pull back from her?

A. No, it looked to me as if we went right away from her, we were not together any time at all to speak of.

Q. What lights could you see on the "Strathalbyn" as you were pulling back away from her?

A. Well, I saw a red light after the collision.

Q. Well, speaking now of the red light, did you see

more than one light on the "Strathalbyn" so that you could make out the loom of her at all as you backed away?

A. Oh, I saw a few dim white lights around the deck.

Q. And then did you see those before you saw the red light?

A. Oh, I saw about the same time, I guess.

Q. Taking those red lights, the position of her, how would you say the ship was lying with reference to your bow when you saw those lights, how was the "Strathalbyn" lying?

A. Well, she looked to be lying right alongside of us.

Q. At what angle?

A. Well, we were almost laying together at that time. We swung around—we were laying like that and I guess she was laying about that, the way it looked to me (illustrating).

Q. That would be less than a right angle—

A. (Interrupting) Yes.

Q. (Continuing)—the way you diagram it there.

A. That is after the collision, of course, when I saw the red light.

Q. Did your ship swing or back straight?

A. Well, we swung a little. At the time of the collision she took a little sheer off to port.

Q. Your bow was sheered off by the collision, do you mean? A. Yes, about a point.

Q. About a point. And how about the other ship, did she seem to be swinging?

A. I don't know anything about her, I could not see her hull at all. I seen her loom alongside of us, but—

Q. (Interrupting) As you backed did you pull away from her? A. Yes sir.

Q. Was your bow pointing—how was your bow pointing as to the lights that you could make out?

A. I saw Robinson Point light; it had about the same bearing.

Q. How did the red lights bear, that you saw on this ship?

A. Well, I lost track of it after we backed away, I didn't notice it any more. I just saw it after the col-

lision and that is all I noticed that light at all. I guess she swung around and started out.

Q. Did the "Flyer" come around?

A. Yes sir, the "Flyer" came around and came down and spoke the "Strathalbyn"—she went close to her, anyhow I suppose she spoke her, and then she came down to us, she spoke us.

Q. Say anything to you?

A. Asked us if we needed any assistance, and we said no, and captain inquired if the "Strathalbyn" was in need of assistance, and the captain of the "Flyer" reported that she was all right.

Q. Then the "Flyer" went on away?

A. The "Flyer" then went away from us. I don't know where she went.

Q. And did you lie there for a little while?

A. Yes sir, we laid there for an hour after the collision.

Q. As the "Strathalbyn" was lying there, could you see any lights on her?

A. I could see some white lights, yes.

Q. Did you follow her white lights as she went on towards Tacoma?

A. Yes, we stood off and on there, stop and head and stopping by.

MR. HAYDEN: I would like to suggest that you let the witness testify, please.

Q. (MR. HUGHES) And on which side of her?

A. What?

Q. On which side of her? A. Which side of the—

Q. (Interrupting) "Strathalbyn".

A. Oh, we kept behind her.

Q. You passed her on which side as you passed on finally, before you got to Robinson Point?

A. We didn't pass her until we started off for Tacoma.

Q. That is what I mean.

A. Then she was in that bight below Robinson Point—looked to me.

Q. You went on to Tacoma?

A. I don't know what side we passed her on. Of

course I could see white lights, but that is all I could see—how she was laying.

Q. You went on into Tacoma, did you? A. Yes sir.

Q. About what time did you get to Tacoma?

A. I can't remember the exact time now. It was after eleven o'clock.

Q. After the collision what did you do?

A. Well, I had to go down below—the telephone, or telegraph broke down.

Q. So you were down below a good share of the time?

A. I was down below in the chart room passing the word to the engineers on the telephone.

CROSS EXAMINATION.

Q. (MR. HAYDEN) In the chart room, you say?

A. Yes sir.

Q. The impact broke your telephone, did it?

A. Yes sir.

MR. HUGHES: Telegraph.

Q. (MR. HAYDEN) Telegraph?

A. Telegraph, Yes sir.

Q. The coming together of the ships broke the telegraph on your ship? A. Yes, broke down.

Q. Knock anybody down on your ship? A. Sir?

Q. Knock anybody down on your ship, or out of his bunk, or anything of that kind?

A. Not that I know of, no. The shock was not very—just seemed to touch, to me.

Q. On what helm did the "Virginian" or the "Strathalbyn" swing when she started to go back to Tacoma, if you know? A. I don't know.

Q. Have you seen this engineer's log?

A. No sir, I never saw it at all.

Q. You say your vessel swung about a point to port after you were struck?

A. Yes, it seemed that way.

Q. How long did you say the vessels were together?

A. Well, I would have to tell you in seconds; it is a guess; it was a very short time.

Q. Give us the best guess you have got about that.

A. Well, I think about half a minute or something

like that; it was not any more than that; it might have been less.

Q. Did the bow of your vessel pass beyond the bow of the "Strathalbyn", that you observed?

A. I don't think so.

Q. Did you notice that? A. No, I did not.

Q. After the collision the light on Robinson Point—that is, immediately after the collision—didn't have the same bearing from you that it did before the collision, did it?

A. Just about the same. We hadn't changed our position any.

Q. How many whistles did you hear from the "Strathalbyn"? A. To us?

Q. Yes.

A. I heard two blasts after the "Flyer" answered her.

Q. Didn't you hear three blasts to you from the—

A. —and then the danger signal.

Q. Didn't you hear three passing blasts from the "Strathalbyn" to you? A. No, no.

Q. Only heard two? A. Only heard two, yes.

Q. You heard her blow to the "Flyer" one passing blast, did you? A. Yes sir.

Q. And when you heard the next passing blast you knew that was for you, did you?

A. Well, God! I don't know. We heard it, that is all; we could not see anything; we heard a whistle; we could not see anything.

Q. You didn't know that was for you, then?

A. What would you think? We didn't know anything about it.

Q. You didn't know anything about it?

A. Certainly not.

Q. When you heard the second one, did you know anything about that one?

A. Well, it seemed to be a little nearer, to me, but we just heard that whistle and that is all.

Q. When you heard the "Flyer" make the whistle, did you have any idea what she meant by it?

A. Naturally I presumed that here—she was blowing to a vessel.

Q. Blowing to a vessel.

A. But we could not see any.

Q. The "Flyer" was on the starboard side of you?

A. Yes sir.

Q. That was a port passing whistle you heard from the "Flyer"? A. Yes sir.

Q. And the first whistle was blown from the "Strathalbyn" to the "Flyer"?

A. Well, we heard her answer the whistle.

Q. I am right, am I not—the first whistle was blown by the "Strathalbyn" to the "Flyer"?

A. Yes, I guess you are right, yes.

Q. And then you heard another passing whistle and you could not imagine what it was for?

A. Well, I presume it was for us.

Q. That is what you presumed at that time, wasn't it? A. Yes.

Q. That is why you started to look for her—is that it—if you presumed it was to you?

A. I should think so.

Q. And you could not see it?

A. We were not taking any chances.

Q. So you did not reverse immediately, though, did you? A. Oh, we stopped immediately.

Q. You did not reverse immediately? A. No.

Q. You knew exactly where the "Flyer" was?

A. Yes.

Q. You knew how far apart you were?

A. Well, guess at it.

Q. You didn't see the other fellow at all?

A. I didn't see him at all.

Q. Then you heard, about a minute afterwards, another whistle to you? A. Yes, we heard another blast.

Q. Didn't hear the "Flyer" answer either of those last two blasts, did you? A. No.

Q. Then you knew the vessel was between you and the "Flyer", didn't you?

MR. HUGHES: Not necessarily.

MR. HAYDEN: I am asking, Mr. Hughes. I don't think it is necessary for you to ship in.

A. The "Flyer"—it is not—the "Flyer" answered once. He would not answer again, no matter what posi-

tion he was in; he would answer a passing signal once, he would not have to answer again.

Q. That is what I understand, you knew the vessel was between you and the "Flyer"?

A. No, that does not follow at all.

Q. It does not follow?

A. No, it does not follow.

Q. Then you had no means of telling that that whistle was for you—is that what you understand?

A. Well, we simply heard the whistle.

Q. And you didn't think it was for you?

MR. HUGHES: He stated that he did.

MR. HAYDEN: I am asking him now.

Q. (MR. HAYDEN) Did you think it was for you?

A. I say yes, we thought probably it was for us, yes.

Q. I see.

A. Of course, as we were the only vessel in sight, we would naturally think it was for us.

Q. You did not reverse when you first heard it and could not see it? A. No.

MR. HUGHES: I object to questions being asked four or five times. It seems to me the record should not be cumbered that way.

MR. HAYDEN: I will pay the expense of an encumbrance that I make in the record.

MR. HUGHES: Well, we expect you to do that, of course.

(Last question and answer read.)

Q. (MR. HAYDEN) You did not reverse until after you heard the second whistle from the "Strathalbyn"; is that as I understand? A. Yes.

Q. Did you reverse before you heard the four whistles from the "Strathalbyn"? A. Yes sir.

Q. How long before?

A. Well, it was around a minute?

Q. Around a minute. How long after you heard the four whistles from the "Strathalbyn" before you blew your three whistles?

A. We blew right after.

Q. Well, how long? A. Oh, a few seconds.

Q. A minute? A. No, no.

Q. It was not a minute? A. No.

Q. Had you reversed before you blew? A. Yes sir.

Q. Did you do the blowing?

A. I did the blowing, yes sir.

Q. Did you do the reversing? A. Yes sir.

Q. How long after you reversed did you say it was before you struck or came together?

A. Well, it was about two minutes.

Q. Two minutes? A. Yes sir.

Q. Were you reversing full speed astern?

A. Yes sir, going astern about two minutes.

Q. Going astern about two minutes?

A. Before they struck. That is the nearest minute, might have been a little less than that.

Q. After you had given this signal to reverse, how long was it before you saw any light on the "Strathalbyn"? A. About two minutes.

Q. How long was it before you saw the loom of her hull after you gave the signal to reverse?

A. I didn't see the hull until we collided.

Q. How far had you run beyond Pully Point, in your estimation, at the time of the collision?

A. Oh, it was less than a mile.

Q. How much less?

A. Well, I should say about three quarters of a mile past Pully.

Q. You say your watch is the same as the wheel house watch? A. Yes sir, the same.

Q. Had you changed watches before you left Seattle? A. No.

Q. Were you just changing watches at the time of the collision? A. No, we hadn't changed watch at all.

Q. Had the watch been called at the time of the collision?

A. Well, we don't, no, no watch to be called. We keep watch from six to twelve, you know, we don't change watches at eight.

Q. You don't change at eight o'clock? A. No.

Q. Was there anybody on the lookout except Mr. Miguel here, that you know of?

A. No, only one lookout.

Q. Anyone forward there except Mr. Miguel that you know of? A. No.

Q. Anybody report to you a light of a steamer?

A. Nobody.

Q. Before this collision, after you had got around Pully Point? A. No sir.

Q. Did you see any steamer before you turned Pully Point, when Robinson Point came in sight did you see any steamer there?

A. Outside of the "Flyer" I didn't notice any.

Q. Didn't notice any?

A. I was looking at the "Flyer" when she was going by.

Q. You didn't notice any other steamer pass you then. Did you notice what time it was—

A. (Interrupting) I didn't.

Q. (Continuing)—immediately after the collision?

A. Yes, eight o'clock, very close to eight; it was nearer eight than it was anything else.

Q. Did you look at your watch to see?

A. Yes sir, I looked at my watch and I told the quartermaster at the wheel to note the time.

Q. You didn't blow any danger signals to this vessel that you say you could not see, at any time, did you, until after she had blown danger signals to you?

A. No sir.

Q. Did you order the course of your vessel changed at all?

A. The courses are not changed under my direction at all. The pilot has charge of the bridge.

RE-DIRECT EXAMINATION.

Q. (MR. HUGHES) At about the time of this collision and shortly before and after, what kind of a night was it? A. It was very dark, overcast.

Q. Did it begin to rain shortly after that?

A. Yes sir, it rained shortly afterwards.

MR. HAYDEN: I object to that question as immaterial and move to strike the answer.

RE-CROSS EXAMINATION.

Q. (MR. HAYDEN) Did you notice the loom of the lights of Tacoma over Robinson Point?

A. No, I didn't.

MR. HUGHES: You refer to the time of the collision, do you?

MR. HAYDEN: I refer to the time of the collision, yes.

(Witness excused.)

JOHN SHURI, produced as a witness on behalf of respondent and cross-libelant, having been first duly sworn by the notary to tell the truth, the whole truth and nothing but the truth, testified as follows:

Q. (MR. HUGHES) Give your full name?

A. John Shuri.

Q. What was your position on the "Virginian" on the night of January 12? A. Quartermaster, sir.

Q. At the wheel? A. Yes sir.

Q. How long have you been in the employ of the "Virginian" in that position?

A. Oh, about seven months.

Q. How long have you been a seafaring man.

A. About seven years.

Q. As your ship that night approached Pully Point did you swing out any to give further clearance?

A. Yes, we swung out about a quarter of a point.

Q. When you got abreast of Pully Point did you change your course again?

A. Yes sir, we hauled back again three quarters of a point.

Q. What course did you then take when you hauled back.

A. Made the course southeast by south, by the compass I was wheeling by in the wheel house.

Q. Is that the course that you would steer for to pass Robinson Point? A. Yes sir.

Q. Did you see the red light at Robinson Point at that time?

A. No, I didn't see it, I didn't see any.

Q. You didn't. Is your wheel house closed, covered—a closed wheel house?

A. Yes sir, the front windows was closed.

Q. The front windows were closed? A. Yes sir.

Q. And the side windows were open, were they?

A. Yes, the side windows was open.

Q. Had you noticed the "Flyer" pass you about the time you passed Pully Point?

A. Yes, I happened to see some lights; then I looked out there, I saw some steamer pass us, but I didn't know—

Q. (Interrupting) On the starboard side?

A. Yes, on the starboard side.

Q. You didn't know what steamer it was?

A. No, I didn't know that.

Q. About how long after you noticed the "Flyer" or the lights of a vessel pass you on the starboard going the same way was it that you received an order to stop—oh, you didn't get that order, of course. Well, did you hear the order to stop?

A. Yes, I heard an order to stop the engines.

Q. You heard the signal given? A. Yes.

Q. The telegraph? A. I heard the telegraph.

Q. About how long was that after you had observed this vessel pass—noticed this vessel out of your starboard window, pass by?

A. Well, I can't say. About two or three minutes—about three minutes.

Q. Did you pay any attention to any whistles ahead of you?

A. I heard a couple of short blasts—whistles.

Q. Looking through the window, you were looking ahead through the windows, were you?

A. Well, I could not, I had to pay attention to my steering and look in the compass.

Q. Did you change your course any? A. No.

Q. How long after that telegraph signal to stop was it that you heard, if you heard it, a signal to reverse "Full speed astern"?

A. It must have been near a minute or so.

Q. All you would know was that the telegraph rang?

A. That is all I know, I heard the telegraph ring. I didn't know what was the matter.

Q. Did you at any time before the collision occurred change your wheel at all? A. No.

Q. When the ship backs how does she act, does she

swing her stern either to port or starboard in backing under such conditions?

A. No, she generally goes right straight astern, we get the wheel amidships.

Q. Did you hear a danger signal?

A. Yes, I heard it.

Q. Did you hear your ship answer it? A. Yes sir.

Q. Did your ship give any other signals or whistles I mean. A. No, I didn't hear any.

Q. How long had the telegraph been given to go full speed astern before you heard the danger signal, in your best judgment?

A. It must have been something over a minute, I don't know how much exactly.

Q. How long after the danger signal did you observe the impact of the two ships together?

A. Well, I would say about two minutes or so, I guess. That is a guess. I didn't look at the time. I didn't have time to see the clock.

Q. Did the third officer order you to note the time of that collision? A. Yes he told me—

Q. (Interrupting) What time was it?

A. (Continuing)—when the collision was, to see the clock.

Q. What time was it?

A. It was 7:59 exactly, by the clock in the wheel house.

Q. Had you seen any light ahead of you—

A. (Interrupting) No, I didn't

Q. (Continuing)—up to the time of the collision?

A. No.

Q. Of course from your position you could not make out—

A. (Interrupting) I didn't see any at all.

Q. (Continuing)—the position of ships, could you?

A. The front window was closed on the light—the binnacle—I can't see outside anything.

CROSS EXAMINATION.

Q. (MR. HAYDEN) Did you know there was anything the matter, that the officers on the bridge were having trouble at all discovering something ahead of them before this accident?

A. No, I could not tell anything, only I know they stopped the engine. I didn't know why.

Q. You didn't know why? A. No.

Q. You heard these whistles ahead of you?

A. I heard the whistles, yes.

Q. You heard somebody report some lights ahead three or four times, didn't you?

A. No, I can't hear inside of the wheel house, because the windows is closed.

Q. You didn't hear at all any report of lights ahead? A. No, I didn't hear that.

Q. Didn't you testify before the inspectors, in answer to this question, asked by the inspectors—the question was this: “Did you hear any report from forward just before this collision took place, as to any lights?” And was not your answer at that time, “I heard a report. I don't know which light. He reported some light, I don't know which light it was, the light on the port or the other ship, I don't know that.” Did you make that answer before the inspectors? A. Yes, I did.

Q. And you did hear some lights reported ahead?

A. I heard once, once I heard, yes.

Q. Is that all you heard? A. That is all.

Q. I will ask you if this was not asked you: “Did you hear any reports from forward as to”—and your answer was, interrupting the question, “I heard it three or four times reporting the lights.” Did you make that answer before the inspectors?

A. I don't remember that.

Q. You don't remember that?

A. I don't remember that I did.

Q. I am referring now—you understand the inspectors I am referring to—you were one of the witnesses who testified before the United States Inspectors of Hulls and Boilers on the 17th day of January, 1912, are you not? A. Yes.

Q. You don't remember making any statement of that kind at that time and place before Mr. Hughes and before the inspectors and before Mr. Richards, the same stenographer that is taking your testimony at this time?

A. Maybe I did, but I don't recall it.

Q. You don't recall it?

A. I don't remember it.

Q. Do you recall having heard the report of lights three or four times before the collision?

A. I heard something—somebody say something before, but I didn't hear exactly what they say. Heard some—

Q. (Interrupting) You heard some voice?

A. Heard some voice.

Q. You heard some voice about reporting lights, did you? A. Yes sir.

Q. Three or four times before the collision?

A. No, I can't say three or four times.

Q. What is your recollection about that now, was it three times or two times or four times?

A. Well, might be two or three; I can't say exactly.

Q. Two or three times? A. Yes.

MR. BOGLE: Do you mean from the time he left Seattle?

MR. HAYDEN: I am just asking this gentleman the questions now.

Q. (MR. HAYDEN) Do you remember when those lights were reported, that you are talking about now?

A. No, only once I could hear clear, a little better, say light, but I didn't hear what—

Q. (Interrupting) Where was that that you heard that once clear? A. Was some time before the collision.

Q. How long before the collision?

A. Oh, I can't say, might be six or seven minutes maybe.

Q. Six or seven minutes before the collision. Now, did you take any notice of the time between these whistles particularly? A. No, I didn't.

Q. Did you take any particular notice of the time between the telegraph to stop and the telegraph to go astern?

A. I didn't take any notice, but I can—just I can say it was a short time between that.

Q. Might have been a half a minute and might have been a minute or might have been a minute and a half—is that it?

A. It might have been about a minute or so.

Q. You don't know—

A. (Interrupting) I can't say exactly how much.

Q. When you say it was two minutes, do you know whether it was actually two minutes or whether it might have been only a minute?

A. It might be nearer two minutes, but I can't say sure. I didn't look at the time.

Q. And you were not paying any particular attention to those signals, were you, you were paying attention to your steering?

A. No, I paid attention to my steering. I have got no time to look around anywhere.

Q. You didn't take any time to pay attention to those signals at all; is that right? A. Yes.

Q. You didn't see any lights at all, did you?

A. No, I didn't. I didn't see outside any at all.

Q. Didn't see the "Flyer"?

A. Oh, I noticed the "Flyer" when she was just abeam, that is all.

(Witness excused.)

(Filed Oct. 15, 1912.)

HENRY TRIPPENSE, A witness called for and on behalf of the respondents and claimants, testified as follows:

DIRECT EXAMINATION.

(BY MR. HUGHES.)

Q. What is your name? A. Henry Trippense.

Q. What is your occupation? A. Chief engineer.

Q. Of what ship? A. The steamer Virginian.

Q. How long have you been chief engineer of the steamer Virginian?

A. About two years and seven months.

Q. You were on the Virginian on the night of January 12, 1912? A. Yes, sir.

Q. When the collision occurred between the Strathalbyn and the Virginian? A. Yes, sir.

Q. Please state what you were doing just prior to the collision

A. I was walking up in the alley by the engine room.

Q. How is that alley set in the ship?

A. Across the ship.

Q. Running,—

A. From the starboard to the port side.

Q. Between the engine room and what?

A. And the aft boat head. The engineer's quarters are aft the engine room door.

Q. They are on the after end of the alley, and the engine room is on the front side? A. Yes, sir.

Q. And you were back and forth in that alley?

A. Yes, sir.

Q. Just strolling? A. Yes, sir.

Q. Who was on duty in the engine room?

A. It was the first assistant's watch, but the third assistant was down there to relieve them.

Q. This alley is enclosed in the ship?

A. Yes, sir, there are doors on both sides.

Q. Were those doors open?

A. One was open and one shut.

Q. Which was open?

A. The starboard side was open.

Q. What was the first thing that attracted your attention prior to this collision?

A. There was nothing particular; there was one bell beating.

Q. The bell jangled in the engine room?

Q. Yes, I heard the bell from the engine room; I didn't pay any attention to that, because that is usual; I was thinking we were close to Tacoma. So the next bell I heard I opened the door and stepped into the engine room from the alley, and when I looked down I saw the engine going astern.

Q. From hearing the jangle, you could not tell could you whether the order was to stop or to reverse?

MR. HAYDEN: That is objected to as leading.

Q. How could you tell which the last order was?

A. By looking down; the valve motion was inboard. If my engines are going ahead, the valve motion is outboard.

Q. The bell registered?

A. No, I could not see the register.

Q. When you are in the hall you cannot tell from hearing what the signal was? A. No sir.

Q. You say that you opened the door and saw that the engine was in fact reversing?

A. The engines were reversed.

Q. It was going astern? A. Yes, sir.

Q. Did you stand there for the time?

A. I was standing there looking down, and the first thing I heard was four whistles, and I wanted for, I could not say for what time, and then I heard three whistles, then I knew that there must be something wrong, because I knew that four signals blast is danger, so I just came back out of the engine room.

Q. Did you give any signal to your engineer?

A. When I heard the danger signal I came this way to open them out full. (Indicating.)

Q. Did the engineer open it out?

A. Yes, as far as I could, and then I stepped back, and went through the alley, and stepped on the deck, and had a walk of about 15 or 20 feet aft, and when I was aft,—(interrupted)

Q. What did you go back for?

A. To look out; so I felt a crash and did not look out, but came right back and then ordered my second assistant to go down and wait for orders, and then I went forward and saw what happened, and came up and told the captain what I saw, that was all.

Q. Now they have asked that you produce the log book. I will ask you if this is your engineer's log?

A. Yes, sir.

Q. Is this the regular log that is kept by you?

A. Yes, the regular log that is kept by me.

Q. Did you make these entries yourself?

A. Yes, sir, I did.

Q. When and how do you make them?

A. I make them from the reference book, out of the engine room.

Q. You make this up in the engineer's room?

A. In my room.

Q. What do you require of your men in the engine room for a basis for your making up the log?

A. I require that they take the time from the bells, and that they work the engine according to the bells.

Q. And keep it in a memorandum?

A. Keep it in a memorandum book, and when the

ship is clear they bring it up to me, and I take it down in the log book.

Q. From your experience in operating that engine and handling that ship, what would you say as to what speed if any she had at the time you felt the collision between the two vessels?

MR. HAYDEN: That is objected to as calling for a conclusion and on the ground that the witness is not qualified.

Q. How long have you been a ship engineer?

A. 23 years.

Q. How long have you operated this ship?

A. Two years and seven months.

Q. Now you may answer the question.

MR. HAYDEN: Same objection, please.

A. On this ship we were not going full speed; we were making about 53 turns average.

Q. Fifty-three revolutions?

A. Yes, sir, turns or revolutions, and I can stop the ship in a little over a minute, no more.

Q. According to your best judgment, about what time had elapsed from the time the engine was reversed until this collision occurred?

A. Well, that is pretty hard to say, I think it must have been,—well, I could not make any estimation, because you know a minute is short when you are not looking, and it is long when you are looking for it, and I could not make any estimate except I go by the record of the book.

Q. Could you tell from the feel of the ship about what speed you had when the collision occurred?

MR. HAYDEN: We object to that on the ground that the witness is not qualified, not being where he could see, and also on the ground that it is cross examination of his own witness.

A. Well I think that the ship was stopped when the collision occurred.

CROSS EXAMINATION.

(BY MR. HAYDEN.)

Q. Where do you get the revolutions?

A. From the revolution counter.

Q. Did you make a note of that in your engine room log, the small log?

A. Yes, sir, right there (indicating).

Q. Show me where you keep these revolutions?

A. There is the revolution on the starboard, and here is the revolution on the port, and here is the middle, and here are the others.

Q. How do you calculate the revolutions from these?

A. I subtract one from the other, and the remainder is the revolution, and then I divide by the minutes we are running and that gives the revolutions per minute.

Q. That gives you the average revolutions per minute?

A. Yes, sir, that is what I say, average revolutions.

Q. You do not know how many revolutions you were making at the time of the collision?

A. No, sir, I do not know.

Q. She might have been going more than 53 at that time?

A. She might or might not; she might not as much.

Q. How does it happen that you were making less than the usual revolutions?

A. At that time we were making about that; that is what I figure.

Q. How does it happen you were making less than usual?

A. Sometimes we have to slow down leaving docks or anything of that kind.

Q. What dock did you leave from Seattle?

A. Pier 14 I think. I don't know exactly where. I cannot recollect whether we came from the mill or pier 14; hold on, we left the dock, Arlington dock, where we took the horses on board.

Q. The engineer in charge is the one who makes the entries, is he, of the time of receiving bells to go forward and back?

A. No, that is the oiler who is on watch.

Q. And his instructions are to put down the time when he receives the bells? A. Yes, sir.

Q. And that is what you go by in your engine room. A. Yes, sir.

Q. You think that time is about right?

A. About, yes, sir.

Q. Who was this oiler? A. Schrag here.

Q. How long has he been with you?

A. On this trip about nine months.

Q. He is a pretty good man, is he?—a careful man?

A. Yes, sir.

Q. And makes his entries accurately?

A. Well, I guess so.

Q. So far as you know he does?

A. As far as I know.

Q. And he has been under your observation and supervision during all this time? A. Yes, sir.

Q. In this small engine room book, and off at the left side of it, there is a circle or letter O?

A. That is the stop bell.

Q. And what is this next mark, like a check?

A. That is the going ahead slow.

Q. And the "W" means what?

A. Half speed, half ahead.

Q. And the QNQ means what? A. Slow stop.

Q. And the "M" means what?

A. Full speed stop; it is not an M but a character like that, pointing down, and when it points up it means going ahead.

Q. Now you left the dock at 6:29?

A. That is in the book there isn't it?

Q. Yes? A. Then that is what it means.

Q. At 6:31 that was stop? A. Yes.

Q. And at 6:31? A. It was going ahead slow.

Q. And 6:32? A. Half speed ahead.

Q. And 6:38 stop again? A. Yes, sir.

Q. And 6:39 what? A. Astern slow.

Q. And 6:39 what?

A. Full speed astern, and the double is full speed.

Q. And 6:41 stop? A. Yes, sir.

Q. And 6:43 astern? A. Yes.

Q. Full speed astern? A. Yes.

Q. And 6:41 is stop? A. Yes, sir.

Q. And 6.43 is like an N? A. That is astern.

And 6:44? A. That is going ahead.

Q. Do you know when this entry was made here, "Arrived at Tacoma January 6-7, that is crossed out?"

A. Yes, sir.

Q. When was that made?

A. Just after we were through; when the engines were going full speed ahead, and the oiler, the man who looks after it, put down the landing, and when we came there he made the other entries, and then we got in collision, and the first assistant scratched that out and put that on top of it.

Q. So from 6:29 to 6:44 your engines were working alternately back and forth?

A. Yes, sir, leaving the dock.

Q. And all these revolutions going to make up the average are included?

A. No, sir, as soon as we get full speed going ahead on both engines and we are clear,—after I have been up the cock and see that we are clear, then I sing out to the engineer to take the revolutions.

Q. Now on the top part of this page you have registered in the small book 346490?

A. The oil motor has nothing to do with it.

Q. And the register, 261340. A. Yes, sir.

Q. These are the registers on the starboard and port engines? A. Yes, sir.

Q. When was that put down?

A. That was put down on the full speed bell.

Q. You don't show in here what it was registering at the time of the collision?

A. Isn't the counter there?

Q. Yes, sir, it is here; is that what it is intended to be? A. Yes, sir.

Q. So then the register on the starboard engine would be 351230? A. Yes, sir.

Q. And on the port engine 266060? A. Yes, sir.

Q. Now you did not keep any record of the registration beyond the time of the collision did you?

A. How do you mean?

Q. Registration of the revolutions after the collision?

A. Well we were going full speed astern and full



